

**REAUTHORIZATION OF THE
NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION AND ITS PROGRAMS**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

MAY 22, 2003

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ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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CONTENTS

Hearing held on May 22, 2003	Page 1
Statement of Senator Dorgan	22
Statement of Senator Lautenberg	3
Statement of Senator Smith	1
Prepared statement	2

WITNESSES

Berman, Richard, Legislative Counsel, American Beverage Licensees and the American Beverage Institute	74
Prepared statement	76
Gillan, Jacqueline S., Vice President, Advocates for Highway and Auto Safety	30
Prepared statement	32
Guerrero, Peter, Director, Physical Infrastructure Issues, U.S. General Accounting Office	10
Prepared statement	12
Hamilton, Wendy J., President, Mothers Against Drunk Driving	84
Prepared statement	90
Runge, M.D., Hon. Jeffrey, Administrator, National Highway Traffic Safety Administration	4
Prepared statement	6
Strassberger, Robert, Vice President, Vehicle Safety, Alliance of Automobile Manufacturers; on behalf of Josephine Cooper, President and Chief Executive Officer	65
Prepared statement of Josephine Cooper	67
Swanson, Kathryn, Director, Minnesota Office of Traffic Safety and Chair, Governors Highway Association on behalf of the Governors Highway Safety Association (GHSA)	53
Prepared statement	55

APPENDIX

Comments of Consumers Union	97
Response to written questions submitted to:	
Richard Berman	123
Josephine S. Cooper	121
Jacqueline S. Gillian	108
Peter Guerrero	105
Wendy Hamilton	128
Jeffrey Runge	99
Kathryn Swanson	116

REAUTHORIZATION OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND ITS PROGRAMS

THURSDAY, MAY 22, 2003

U.S. SENATE,
SUBCOMMITTEE ON COMPETITION, FOREIGN COMMERCE,
AND INFRASTRUCTURE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:52 p.m. in room SR-253, Russell Senate Office Building, Hon. Gordon H. Smith, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF HON. GORDON H. SMITH, U.S. SENATOR FROM OREGON

Senator SMITH. Good afternoon, ladies and gentlemen. We will call to order this Subcommittee hearing of the Commerce Committee. Today our topic will be considering the Administration's recently released proposal to reauthorize the National Highway Traffic Safety Administration or NHTSA, and the safety and motor vehicle programs it administers.

NHTSA plays a vital role in helping reduce traffic deaths, injuries and economic losses resulting from vehicle crashes. This reauthorization will afford the Committee an opportunity to evaluate the Administration's priorities and develop a sound reauthorization proposal for the next 6 years. According to NHTSA, 95 percent of all transportation-related deaths and 99 percent of all transportation-related injuries are the result of motor vehicle crashes. It is estimated that in 2002, 42,850 people were killed in vehicle crashes and roughly 3 million people were injured.

In 2000, the economic costs of these vehicle crashes were over \$230.6 billion. This is a staggering amount and yet, one cannot compare the enormous personal loss of that amount to the pain and suffering experienced by those people involved in the accidents.

We must carefully evaluate the Administration's reauthorization proposal known as, this year, SAFETEA and work to ensure that the Senate develops a sound and balanced proposal. In particular, I'm going to work to ensure that we do not pass legislation that would create an imbalance whereby states that have taken aggressive action in the areas of seat belts and impaired driving would subsequently be penalized for the sake of providing more funding assistance to those states that have not taken similar actions. We need to build upon the success of existing programs, and while it's

important to assist those states with the greatest safety problems, we should also continue to support all states in their efforts to further their highway safety.

I am deeply concerned about the rise in traffic-related fatalities last year and the number of potential deaths that could have been prevented if the occupants were wearing seat belts. Of the 42,850 people killed last year on our highways, 59 percent of them were not wearing seat belts.

I'm proud of my state, the state of Oregon, for having already passed a primary seat belt law in 1990, and it is now one of the Nation's leaders in seat belt usage at approximately 90 percent. It's estimated that if the United States as a whole could increase its seat belt usage from its current 75 percent to 90 percent, over 4,000 lives would be saved each year.

Later this year, I'm going to introduce legislation that would implement a Federal primary seat belt law and encourage drivers to "Click It or Ticket." This legislation will prevent thousands of traffic-related deaths and injuries each year. I would be interested in the comments that any of our witnesses today might have about a Federal primary seat belt law.

The Commerce Committee intends to move quickly in the coming weeks to develop and report legislation to authorize NHTSA and other safety programs under its jurisdiction. I look forward to working closely with the other Members to develop a reauthorization proposal that will promote and strengthen highway safety initiatives. In that effort we will be very interested in hearing the views of all of our witnesses, and we are privileged to be joined by my colleague Senator Lautenberg.

[The prepared statement of Senator Smith follows:]

PREPARED STATEMENT OF HON. GORDON H. SMITH, U.S. SENATOR FROM OREGON

Good afternoon. Today, the Subcommittee meets to consider the Administration's recently released proposal to reauthorize the National Highway Traffic Safety Administration (NHTSA) and the safety and motor vehicle programs it administers. NHTSA plays a vital role in helping to reduce deaths, injuries, and economic losses resulting from motor vehicle crashes. This reauthorization process will afford the Committee an opportunity to evaluate the Administration's priorities and develop a sound reauthorization proposal for the next six years.

According to NHTSA, 95 percent of all transportation related deaths, and 99 percent of all transportation related injuries, are the result of motor vehicle crashes. In 2002, 42,850 people were killed in vehicle crashes and approximately 3 million people suffered injuries. In 2000, the economic costs related to vehicle crashes was over \$230.6 billion. This is a staggering amount, yet one that cannot compare to the enormous personal and psychological suffering experienced by persons involved.

We must carefully evaluate the Administration's reauthorization proposal, known as "SAFETEA," and work to ensure that the Senate develops a sound and balanced proposal. Our evaluation should carefully consider how any proposed restructuring of the existing NHTSA grant programs would affect the states' ability to promote highway safety. In particular, I will work to ensure that we do not pass legislation that would create an imbalance whereby states that have taken aggressive action in the area of seatbelts and impaired driving would subsequently be penalized for the sake of providing more funding assistance to those states that have not taken similar actions. We need to build upon the success of existing programs, and while it is important to assist those states with the greatest safety problems, we also should continue to support *all* states in their efforts to promote highway safety.

Finally, I want to briefly discuss the Committee's continued concerns about vehicle rollover and compatibility. These are also issues that Administrator Runge has indicated are of great concern to the Administration. Yet, I understand that the

SAFETEA proposal contains no new rulemaking initiatives in this area. I want to learn what specifically NHTSA is doing to address these problems.

The Commerce Committee intends to will move quickly in the coming weeks to develop and report legislation to authorize NHTSA and other safety programs under its jurisdiction. I look forward to working closely with the other members to develop a reauthorization proposal that will promote and strengthen highway safety initiatives. In that effort, we will be very interested in hearing the views of today's witnesses.

Senator SMITH. Senator Lautenberg, do you have an opening statement?

**STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY**

Senator LAUTENBERG. I do, Mr. Chairman, and I will try not to be too long. I'm glad to see our witnesses here, people with knowledge and interests, and I have long been interested in making our roads and highways safer. During my previous three terms, that was before I became a freshman, I wrote the bills now law to, one, increase the drinking age from 18 to 21; to establish .08 as the blood alcohol standard for drunk driving; and, three, to ban triple trailer trucks from most of our roads. These laws have made our roads and highways safer and my hope is that they've saved a few lives as well.

Last year, almost 43,000 people died in traffic accidents, and it's not SARS or a military conflict, but this is an epidemic that we have a cure for and a war we know how to fight. We need to ask ourselves if we're doing enough to prevent innocent lives from being lost on our highways.

The Administration's safety proposal has just \$50 million out of more than \$38 billion for Fiscal Year 2004, and it has \$50 million dedicated to impaired driving control programs. Now that's less than current funding, and I'm sure we will hear about how under the Administration's proposal states will be able to flex their funding to spend it on whatever they choose, be it roadway improvements or behavioral safety programs.

But a recent GAO study found that when given the choice, states prefer to spend money on infrastructure improvements rather than behavioral safety programs like those designed to increase seat belt use and to reduce drunk driving. The highway construction lobby is much more powerful in State capitals than safety advocates. The Federal Government needs to take a strong leadership role on highway safety issues. If we leave it up to the states on these issues, then here's the result.

Thirty-two states still don't have a primary enforcement seat belt law. Eleven states still have not adopted the .08 percent blood alcohol content standard. Twenty-four states still don't have an open container law. Twenty-seven states still don't have a repeat offender law. This tells me that the states need stronger encouragement to address these important safety issues. We've already tried threatening withholding highway construction funds but if we give them a loophole to get the funds back within 4 years, maybe it still isn't enough encouragement.

This week Senator DeWine and I introduced legislation aimed at increasing enforcement of drunk driving strategies that work to reduce drunk driving and legislation targeting higher risk drivers,

that is, repeat offenders and drivers with blood alcohol levels of .15 percent or higher.

Policies like state adoption of an .08 BAC standard, blood alcohol standard, and open container laws are designed to pick the low-hanging fruit when it comes to reducing drunk driving, but now it's time to take the next step in getting drunk drivers off our roads. I look forward to working with my colleagues here on the Commerce Committee to get such provisions incorporated into our segment of the reauthorization bill that makes its way to the Senate floor. I look forward to hearing from our witnesses today on these important issues and I thank you, Mr. Chairman, for the opportunity to make the statement.

Senator SMITH. Thank you, Senator Lautenberg.

We are privileged to have as our first panel the Honorable Jeffrey Runge, and he is the Administrator of the National Highway Traffic Safety Administration; and Mr. Peter Guerrero, Director of Physical Infrastructure Team, General Accounting Office. Doctor.

**STATEMENT OF HON. JEFFREY RUNGE, M.D., ADMINISTRATOR,
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

Dr. RUNGE. Thank you, Mr. Chairman. My written statement is submitted for the record, and I would like to just highlight it, if I may.

We appreciate the opportunity on behalf of NHTSA and the DOT to come today to discuss our proposal to reauthorize highway safety programs via SAFETEA. You, Mr. Chairman, said very well why it is that we are here, and that is the 42,850 people who died last year, and over 41,000 who died in every subsequent year before that, which is really the equivalent of losing a city the size of Chapel Hill or Rockville, Maryland every year, being wiped off the face of the Earth. And yet because these fatalities are spread out, we don't have nearly the degree of anger, of the need for urgency that we certainly should.

We did see some improvement the last 2 years in the number of injuries, which we believe is due to more people buckling up and driving safer vehicles. But in spite of that, motor vehicle crashes remain the leading cause of death in our country for every age group from age 2 to age 33 and as you mentioned, the economic cost is crippling. You said \$230 billion per year, which adds up to \$820 for every man, woman and child living in our country. This includes \$33 billion in medical expenses, and \$81 billion in lost productivity. Those two numbers could be reduced dramatically by increasing safety belt usage. The average cost for a critically injured survivor is \$1.1 million over the lifetime.

So for these reasons, President Bush and Secretary Mineta have made reducing highway deaths the number one priority of the Department of Transportation, and formulating our reauthorization proposal, indeed, named SAFETEA. The Secretary has given the FMCSA and the Federal Highway Administration a single goal, to reduce motor vehicle fatality rate by a third over the next 5 years.

We know what works. There are highly effective and simple remedies to combat highway death and injury. Wearing safety belts is number one. Everybody can cut their risk of death in half if they would simply do so. So to encourage more people to buckle up, we

propose a new program that will provide \$100 million each year to reward states for enacting primary safety belt laws, and to provide an incentive to other states to follow their lead.

Alternatively, states that opt not to enact a primary safety belt law but that achieve a safety belts usage rate of 90 percent would also qualify for those additional grant funds.

We also propose to streamline our Section 402 safety programs. Two important elements are the safety belt use grant, which complements the primary law enactment grant. So it would reward states for improving their safety belt use rates, *i.e.*, an enforcement grant program. And second, a general performance grant which rewards states that show demonstrable improvement in the following areas of overall motor vehicle fatalities, alcohol-related fatalities, and motorcycle, bicycle and pedestrian crash fatalities, which should address your issue of states that are doing well receiving additional funding.

Our proposal will also offer states more flexibility in how they spend their Federal highway safety dollars and yet, they will be held accountable for achieving measurable safety-related goals.

SAFETEA addresses discouragement of impaired driving by targeting our resources where they are most needed. In 2002, we estimate 17,970 people died in alcohol-related crashes, which is over 40 percent of total fatalities for the year, and indeed, an increase of 3 percent over 2001. The progress that we have made in the last decade to deter impaired driving has been stalled, and clearly more needs to be done.

The key component of the revised 402 program focuses on a small number of states with a particularly severe impaired driving problem, by creating a \$50-million-a-year impaired driving discretionary grant program per year that will support states with high fatality numbers and rates to assist them in developing a strategic plan for reducing impaired driving fatalities, as well as supporting improvements in the prosecution and adjudication of DWI cases. We believe that this consolidated grant program and supporting activities, together with continued use of nationwide high visibility enforcement campaigns will restart the downward trend in alcohol fatalities that we have seen since 1988.

In addition, through the comprehensive safety planning process states may elect to use a significant amount of the consolidated Section 402 money for impaired driving programs. Aside from the consolidation of these programs, SAFETEA also includes other provisions such as funds to update a national comprehensive motor vehicle crash causation survey that will enable us to learn more about the factors that happen before the crash on the Nation's roads, a new incentive program to encourage states to improve their traffic records data so they can apply those resources where they are most needed, and a new State formula grant program to support E-911 and the coordination of emergency medical systems.

Finally, SAFETEA would reauthorize a national driver register. The NDR facilitates the exchange of driver licensing information on problem drivers among the states and various Federal agencies to aid in identifying those problem drivers and in making decisions concerning driver's licensing, driver employment, and transportation safety.

Mr. Chairman, our portion of the SAFETEA builds upon the principles, values and achievements of ISTEA and TEA-21, yet recognizes that there are new challenges. We urge Congress to authorize the highway safety programs before they expire on September 30, and we look forward to working with you and the Committee on this task. Thank you.

[The prepared statement of Dr. Runge follows:]

PREPARED STATEMENT OF HON. JEFFREY RUNGE, M.D., ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Chairman Smith, Senator Dorgan, Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the Administration's proposal to reauthorize our highway safety programs in the "Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003" or "SAFETEA."

Through your leadership, and in conjunction with our state, local and private sector partners, NHTSA has worked to realize the goals of TEA-21. We are grateful to this Subcommittee for its continuing leadership by scheduling this hearing. My staff and I look forward to working with you and the rest of Congress in shaping the proposals that will reauthorize TEA-21. Working together, we will assure the successful reauthorization of this legislation and address the highway safety challenges facing the Nation.

Motor vehicle crashes are responsible for 95 percent of all transportation-related deaths and 99 percent of all transportation-related injuries. They are the leading cause of death for Americans ages 1 to 34. NHTSA's portion of SAFETEA focuses exclusively on highway safety. Although we are seeing improvements in vehicle crash worthiness and crash avoidance technologies, the rate and numbers of fatalities and injuries on our highways are staggering. In 2002, an estimated 42,850 people were killed in motor vehicle crashes, up slightly from 42,116 in 2001.

Traffic injuries in police-reported crashes decreased by 4 percent in 2002. While this is encouraging, we still are faced with the overwhelming fact that nearly 3 million people were injured in these crashes in 2002.

The economic costs associated with these crashes are unacceptable as well. In fact, they constitute a grave public health problem and serious fiscal burden for our Nation. The total annual economic cost to our economy of all motor vehicle crashes is an astonishing \$230.6 billion in 2000 dollars, or 2.3 percent of the U.S. gross domestic product. This translates into an average of \$820 for every person living in the United States. Included in this figure is \$81 billion in lost productivity, \$32.6 billion in medical expenses, and \$59 billion in property damage. The average cost for a critically injured survivor is estimated at \$1.1 million over a lifetime. As astounding as this figure is, it does not even begin to reflect the physical and psychological suffering of the victims and their families.

The fatality rate for 100 million vehicle miles traveled (VMT) remained unchanged at 1.51, according to these estimates. Secretary Mineta has given us the goal of reducing the fatality rate to no more than 1.0 fatality for every 100 VMT by 2008. This is not just a NHTSA goal; it is a goal of the entire Department of Transportation.

For these reasons, President Bush and Secretary Mineta have made reducing highway fatalities the number one priority for the Department and for the reauthorization of TEA-21.

Traffic safety constitutes a major public health problem, but unlike a number of the complex issues facing Washington today, we have some highly effective and simple remedies to combat highway death and injury.

Wearing safety belts is the number one offensive and defensive step all individuals can take to save their lives. Buckling belts is not a complex vaccine, doesn't have unwanted side effects and doesn't cost any money. It is simple, it works and it's lifesaving.

Safety belt use cuts the risk of death in a severe crash in half. Most passenger vehicle occupants killed in motor vehicle crashes continue to be totally unrestrained. If safety belt use were to increase from the national average of 75 percent to 90 percent—an achievable goal—nearly 4,000 lives would be saved each year. For every 1 percentage point increase in safety belt use—that is 2.8 million more people "buckling up"—we would save hundreds of lives, suffer significantly fewer injuries, and reduce economic costs by hundreds of millions of dollars a year.

In addition to the economic obligation, more importantly, we have a moral obligation to immediately address the problem of highway safety. The Bush Administra-

tion remains committed to reducing highway fatalities, and our bill offers proposals to increase safety belt use and to take those and other actions that can make the achievement of this goal possible.

Thanks in large part to the hard work of many of you and your predecessors, SAFETEA builds on the tremendous successes of the previous two pieces of surface transportation legislation. Both the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), a bill with which the Secretary is proud to have played a role, and TEA-21, provided an excellent framework to tackle the surface transportation challenges that lie ahead.

ISTEA set forth a new vision for the implementation of the Nation's surface transportation programs. Among other things, ISTEA gave state and local officials unprecedented flexibility to advance their own goals for transportation capital investment. Instead of directing outcomes from Washington, D.C., the Department shifted more of its focus to giving state and local partners the necessary tools to solve their unique problems while still pursuing important national goals. SAFETEA not only maintains this fundamental ISTEA principle, it goes further by giving states and localities even more discretion in key program areas. To meet the significant highway safety challenges the states face, we have designed SAFETEA's highway safety title to create a safer, simpler and smarter program.

President Bush and this Administration are committed to fostering the safest, most secure national transportation system possible, even as we seek to enhance mobility, reduce congestion, and expand our economy. These are not incompatible goals. Indeed, it is essential that the Nation's transportation system be both safe and secure while making our economy both more efficient and productive.

While formulating the Department's reauthorization proposal, the Federal Highway Administration (FHWA) and NHTSA came together on a different approach to addressing the Nation's substantial highway safety problems. Under that approach, states would receive more resources to address their own, unique transportation safety issues; would be strongly encouraged to increase their overall safety belt usage rates; and would be rewarded for performance with increased funds and greater flexibility to spend those funds on either infrastructure safety or behavioral safety programs. The following are the major programmatic elements of the Administration's highway safety reauthorization proposal.

SAFETEA establishes a new core highway safety infrastructure program, in place of the existing Surface Transportation Program safety set-aside. This new program, called the Highway Safety Improvement Program, will more than double funding over comparable TEA-21 levels. This new program would provide \$7.5 billion for safety projects over the 6-year authorization period. In addition to increased funding, states would be encouraged and assisted in their efforts to formulate comprehensive highway safety plans.

To streamline NHTSA's grant programs and make them more performance-based, we have proposed a major consolidation of NHTSA's Section 402 safety programs. While the basic formula grant program for Section 402 would provide \$1.05 billion over the 6-year authorization period, two important elements of this revised Section 402 are a General Performance Grant and a Safety Belt Performance Grant. The Safety Belt Performance Grant provides up to \$100 million each year to reward states for passing primary safety belt laws—meaning drivers and passengers can be cited for failure to wear a safety belt—or achieving 90 percent safety belt usage rates in their states. A state that enacts new primary belt laws will receive a grant equal to five times the amount of its current formula grant for highway safety. This significant incentive is intended to prompt state action needed to save lives. In 2002, states with primary safety belt laws averaged 80 percent use, 11 percentage points higher than those with secondary laws—laws preventing police from issuing a citation unless another traffic law was broken. States achieve high levels of belt use through primary safety belt laws, public education using paid and earned media, and high visibility law enforcement programs, such as the *Click it or Ticket* campaign.

Any state that receives a Safety Belt Performance Grant for the enactment of a primary safety belt law is permitted to use up to 100 percent of those funds for infrastructure investments eligible under the Highway Safety Improvement Program in accordance with the state's comprehensive plan. Also, states can receive additional grants by improving their safety belt use rates. This incentive would provide \$182 million over the 6-year authorization period. Any state that receives a grant for improved safety belt usage rates or a General Performance Grant for the achievement of other key safety performance measures is permitted to use up to 50 percent of those funds for activities eligible under the new Highway Safety Improvement Program.

Overall, this groundbreaking proposal offers states more flexibility than they have ever had before in how they spend their Federal-aid safety dollars. It reduces state administrative burdens by consolidating multiple categorical grant programs into one. It would reward them for accomplishing easily measurable goals and encourage them to take the most effective steps to save lives. It is exactly the kind of proposal that is needed to more effectively address the tragic problem of highway fatalities.

The \$340 million, six-year General Performance Grant component of our revised Section 402 program not only eases the administrative burdens of the states but also rewards states with increased Federal funds for measurable improvements in their safety performance for reducing (i) overall motor vehicle fatalities, (ii) alcohol-related fatalities, and (iii) motorcycle, bicycle, and pedestrian crash fatalities.

SAFETEA is designed to help the states deter impaired driving. Encouraging people to wear their safety belts will help reduce the number of deaths and injuries attributed to impaired driving, but reducing the actual number of impaired drivers is a complex issue requiring interconnected strategies and programs. In 2002, an estimated 17,970 people died in alcohol-related crashes (42 percent of the total fatalities for the year), a 25 percent reduction from the 23,833 alcohol-related fatalities in 1988, but an increase of 3 percent over 2001. Intoxication rates have decreased for drivers of all age groups involved in fatal crashes over the past decade, with drivers 25 to 34 years old experiencing the greatest decrease, followed by drivers 16 to 20 years old. Our 2002 estimates indicate that impaired-related fatalities rose for the third straight year.

Additionally, the President's National Drug Control Strategy recognizes drug-impaired driving as both a problem and, in its reduction, an opportunity. As a problem, we believe that drug-impaired driving, either alone or in combination with alcohol, accounts for 10–20 percent of crash-involved drivers. Detecting drug-impaired driving gives police officers, prosecutors and judges the opportunity to appropriately sanction offenders and refer them to treatment as appropriate, which is an important objective of the President. NHTSA contributes to this Presidential objective principally through the drug evaluation and classification (DEC) program, which was recognized in the President's National Drug Control Strategy for the first time in 2003. By giving traffic officers and prosecutors the tools to better identify drug use in vehicle drivers, the DEC program meets two important objectives of the administration: reducing traffic fatalities and injuries and reducing drug use. This reauthorization bill allows our agency to continue working towards these objectives by supporting this important program and reducing the incidence of both alcohol and drug-impaired driving.

Another component of our revised Section 402 program will focus significant resources on a small number of states with particularly severe impaired driving problems by creating a new \$50 million a year impaired driving discretionary grant program. The grant program will include support for up to 10 states with especially high alcohol fatality numbers or rates to conduct detailed reviews of their impaired driving systems by a team of outside experts and assist them in developing a strategic plan for improving programs, processes, and reducing impaired driving-related fatalities and injuries. Additional support will also be provided for training, technical assistance in the prosecution and adjudication of DWI cases, and to help licensing and criminal justice authorities close legal loopholes.

NHTSA believes that this targeted state grant program and supporting activities, together with continued nationwide use of high-visibility enforcement and paid and earned media campaigns, will lead to a resumption of the downward trend in alcohol-related fatalities that the Nation experienced over the past decade. Also, through the comprehensive safety planning process, all states may elect to use a significant amount of their FHWA Highway Safety Infrastructure funding, in addition to their consolidated Section 402 funds, for impaired driving.

In addition to the consolidation of our Section 402 programs, SAFETEA's highway safety title includes a key provision to provide a comprehensive national motor vehicle crash causation survey that will enable us to determine the factors responsible for the most frequent causes of crashes on the Nation's roads. This comprehensive survey would be funded at \$10 million a year out of the funds authorized for our highway safety research and development program. The last update of crash causation data was generated comprehensively in the 1970s. Vehicle design, traffic patterns, numbers and types of vehicles in use, on-board technologies and lifestyles have changed dramatically in the last 30 years. Old assumptions about the causes of crashes may no longer be valid. Since NHTSA depends on causation data to form the basis for its priorities, we must ensure that this data is current and accurate. Updating our crash causation data will allow us to target our efforts for the next decade on the factors that are the most frequent causes of crashes on American roads.

NHTSA has in place an infrastructure of investigation teams that will enable us to perform the crash causation study efficiently and accurately. These teams are currently performing a similar study for large, commercial truck crashes and are adept at gathering evidence from the scene, the hospital, and from victim and witness interviews. Their findings will guide the agency's programs in crash avoidance, including vehicle technologies as well as human factors.

SAFETEA also creates a new \$300 million incentive grant program that builds upon a TEA-21 program to encourage states to improve their traffic records data. Deficiencies in such data negatively impact national databases including the Fatality Analysis Reporting System, General Estimates System, National Driver Register (NDR), Highway Safety Information System, and Commercial Driver License Information System as well as state data used to identify local safety problems. Improvements are needed for police reports, emergency medical services (EMS), driver licensing, vehicle registration, and citation/court data provide essential information. Accurate state traffic safety data are critical to identifying local safety issues, applying focused safety countermeasures, and evaluating the effectiveness of countermeasures.

SAFETEA also establishes a new \$60 million state formula grant program to support EMS systems development, 911 systems nationwide, and a Federal Interagency Committee on EMS to strengthen intergovernmental coordination of EMS. The states would administer the grant program through their state EMS offices and coordinate it with their highway safety offices.

For the past 20 years, Federal support for EMS has been both scarce and uncoordinated. As a result, the capacity of this critical public service has seen little growth and support for EMS has been spread among a number of agencies throughout the Federal government, including NHTSA. Most of the support offered by these agencies has focused only on specific system functions, rather than on overall system capacity, and has been inconsistent and ineffectively coordinated.

In 2001, the General Accounting Office cited in its report, "Emergency Medical Response: Reported Needs Are Wide-Ranging, With Lack of Data A Growing Concern," the need to increase coordination among Federal agencies as they address the needs of regional, state, or local EMS systems. According to GAO, these needs, including personnel, training, equipment, and more emergency personnel in the field, vary between urban and rural communities.

The Administration believes that Federal support for EMS and 9-1-1 systems should be enhanced and coordinated. The enactment of this section would result in comprehensive system support for EMS, 9-1-1 systems, and improved emergency response capacity nationwide.

SAFETEA also would provide \$559.5 million for NHTSA's highway safety research and development program. This program supports state highway safety behavioral programs and activities by developing and demonstrating innovative safety countermeasures, and by collecting and disseminating essential data on highway safety. The results of our Section 403 research provide the scientific basis for highway safety programs that states and local communities can tailor to their own needs, ensuring that precious tax dollars are spent only on programs that are effective. The states are encouraged to use the successful programs for their ongoing safety programs and activities.

Highway safety behavioral research focuses on human factors that influence driver and pedestrian behavior and on environmental conditions affecting safety. The program addresses a wide range of safety problems through various programs, initiatives, and demonstrations, such as: impaired driving programs, including the drug evaluation and classification program, safety belt and child safety seat programs and related enforcement mobilizations, pedestrian, bicycle, and motorcycle safety initiatives and related law enforcement strategies, enforcement and justice services, speed management, aggressive driving countermeasures, EMS, fatigue and inattention countermeasures, and data collection and analysis efforts. All of these efforts have produced a variety of scientifically sound data and results.

SAFETEA provides specific set-asides out of Section 403 funds for the National Motor Vehicle Crash Causation Survey, discussed earlier, and for EMS and international highway safety activities.

Finally, SAFETEA would provide \$23.6 million for the NDR. The NDR facilitates the exchange of driver licensing information on problem drivers among the states and various Federal agencies to aid in making decisions concerning driver licensing, driver improvement, and driver employment and transportation safety.

Mr. Chairman, NHTSA's portion of SAFETEA builds upon the principles, values, and achievements of ISTEA and TEA-21, yet recognizes that there are new challenges to address. We urge Congress to reauthorize the highway safety programs

before they expire on September 30, 2003. I would be pleased to answer any questions.

Senator SMITH. Thank you. Mr. Guerrero.

**STATEMENT OF PETER GUERRERO, DIRECTOR,
PHYSICAL INFRASTRUCTURE ISSUES,
U.S. GENERAL ACCOUNTING OFFICE**

Mr. GUERRERO. Thank you, Mr. Chairman. Mr. Chairman, Mr. Lautenberg, I am going to again, as Dr. Runge did, summarize my statement that has been submitted for the record.

I appreciate the opportunity to be here to testify today on NHTSA's efforts to reduce traffic fatalities and discuss SAFETEA. Highway safety, as you heard from Dr. Runge, is a major concern. One person dies every 12 minutes on our highways and as Dr. Runge said, it is the leading cause of death for every age from 4 to 33 years. It not only involves a tragic loss of life, but it's a cost to us in economic terms that is substantial, as you noted, Mr. Chairman.

In 1998 under ISTEA, under TEA-21, the Congress funded a series of highway safety programs to encourage, among other things, the use of seat belts and to reduce drunk driving. The states implement these programs by establishing goals and NHTSA reviews the State goals and provides oversight to the State programs to ensure that they make progress.

My testimony today will discuss three matters: the factors that contribute to accidents on our highways; the funding of these safety programs; and NHTSA's oversight of those programs.

In summary, we found three things. First, many factors combine to produce circumstances that lead to motor vehicle crashes. There's usually not one cause. There are three factors generically: human factors, roadway factors and vehicle factors, and human factors by far are the largest component and contributing factor to highway accidents.

Second, we spent about \$2 billion in State grants over the last 5 years under TEA-21 to improve highway safety. Overall funding for NHTSA behavioral programs nearly doubled from Fiscal Years 1998 to 2002, as shown by this chart. In addition, the chart also shows that almost \$400 million in incentive funds and penalty transfers were used for highway safety construction purposes.

Our third finding is that NHTSA oversight of State programs can be enhanced. We found that two important oversight tools available to NHTSA called management reviews and improvement plans are not being used as effectively as they could be to ensure that states are both operating within grant guidelines and achieving safety goals.

Now I would like to provide some perspective on the progress that has been made in improving highway safety and in reducing traffic fatalities.

If you go back to the mid-1970s, it's clear that we have made considerable progress and this chart shows that. From 1975 to 2002, annual fatalities decreased by about 4 percent. However, after reaching a low in 1992, highway fatalities have been edging up ever since. During the same period, fatalities adjusted for the increased number of miles traveled, or the fatality rate per 100 mil-

lion vehicle miles, dropped from 3.35 in 1975 to 1.51 in 2002, or about 55 percent. However, we have not seen significant declines in this rate over the last couple of years.

Alcohol-related crashes present even a more challenging picture. They account for a large portion of traffic fatalities. Between 1982, when NHTSA first began tracking alcohol-related fatalities, and this past year, 2002, about 430,000 people died in alcohol-related crashes. Today, it contributes to 40 percent of all highway fatalities. As the chart shows, we have not made much progress in reducing the alcohol-related fatality rate since the late 1990s.

The progress we have made over the past quarter-century is attributable to many actions. For example, during this period, seat belt use rates grew from 14 percent to over 75 percent today. In addition, NHTSA told us that increased enforcement and public awareness of the dangers of drinking and driving have reduced the incidents of casual drinkers becoming traffic fatalities. However, both NHTSA and the states acknowledge that making further progress would be more challenging.

Now I would like to discuss the various factors that contribute to motor vehicle crashes. As I mentioned earlier, it's usually a multiple combination of factors that produce the motor vehicle crash, it is rarely a single cause, and human factors are generally seen as the most significant. Alcohol consumption and speeding are the two major human behavioral factors contributing to vehicle crashes today.

It is illegal in every state and the District of Columbia to drive a motor vehicle while under the influence or impaired by alcohol or drugs. In addition, all states but Massachusetts have blood alcohol laws that make it illegal to drive with a specified level of alcohol in the blood. As of January 2003, 17 states have set the blood alcohol level at a standard of 0.1 percent alcohol and the remaining states have set a more stringent standard of .08 percent alcohol concentration in the blood.

I would like to note that continued progress toward the adoption of the .08 standard is important since blood alcohol concentrations of .08 or greater were reported in about 87 percent of the alcohol-related fatalities last year.

The roadway environment, those factors external to the driver and the vehicle that increase the risk of a crash, is generally considered the second most prevalent factor contributing to crashes.

And finally, data and study generally show, and experts believe that vehicle factors, the third cause of accidents, contribute less often than do human or roadway. However, recent changes in the composition of the Nation's vehicle fleet to more light trucks and SUVs have focused attention to the dangers posed by these vehicles to their own occupants and those of other vehicles.

For example, rollover crashes are especially serious because they are more likely to result in fatalities. Passenger cars were the vehicle type least likely to roll over in a crash, where SUVs were over three times more likely to roll over. And the fatalities that occur in SUV rollovers is twice as high as the proportion of passenger cars.

Mr. Chairman, seeing that my time has expired, I would like to just note that we did recommend to NHTSA certain things that

they could do to enhance their oversight of State programs. We believe it's important for them to use two tools at their disposal. One is called a management review, the other is called a State improvement plan. We noted in our work that since 1998, only 7 improvement plans have been developed, and we found that highway safety performance in a number of states was worse than that in other states that had plans, yet those states that had poorer performance did not have plans for improvement. In particular, one state that did not have an improvement plan had experienced an alcohol-related increase of over 40 percent, putting it at double the Nation's average.

We recommended that NHTSA provide more specific guidance to its regional offices as to when to use these plans to ensure greater consistency in its oversight, and NHTSA is taking action to implement our recommendations. Thank you.

[The prepared statement of Mr. Guerrero follows:]

PREPARED STATEMENT OF PETER GUERRERO, DIRECTOR, PHYSICAL INFRASTRUCTURE
ISSUES, U.S. GENERAL ACCOUNTING OFFICE

**Highway Safety: Factors Contributing to Traffic Crashes and NHTSA's
Efforts to Address Them**

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to testify today on the National Highway Traffic Safety Administration's (NHTSA) efforts to reduce traffic fatalities. Highway safety is a major concern for the country, given that over 1.2 million people have died on our roadways over the last 25 years. Since 1982, about 40 percent of traffic deaths were from alcohol-related crashes, and traffic crashes are the leading cause of death for people ages 4 through 33. In addition to the tragic loss of life, the economic cost of fatalities and injuries from crashes totaled almost \$231 billion in 2000 alone, according to NHTSA.

In 1998, the Transportation Equity Act for the 21st Century (TEA-21) funded a series of highway safety programs, administered by NHTSA, that increased funding to the states to encourage, among other things, the use of seat belts and child passenger seats and to prevent drinking and driving. The states implement these programs by establishing highway safety goals and initiating projects to help reach those goals. NHTSA reviews state goals and provides oversight of state highway safety programs.

My testimony today will discuss (1) the factors that contribute to traffic crashes, (2) the funds provided to the states for highway safety programs, and (3) NHTSA's guidance provided to states and oversight of the states' programs. My statement is primarily based on two GAO reports on these topics. The first report, issued in March 2003, dealt with the factors that contribute to traffic crashes.¹ To complete that effort, we analyzed three Department of Transportation databases that contained data through 2001; interviewed experts from academia, insurance organizations, and advocacy groups as well as department officials; and reviewed studies on various aspects of motor vehicle crashes. In addition, NHTSA recently released 2002 traffic fatality data, which we used to update some of the information contained in the April 2003 report for this testimony. The second report, which we are releasing today, provides information on TEA-21 funds for state highway safety programs, how the states have used those funds, and NHTSA's oversight of the state programs.² To conduct this effort, we visited six states and the NHTSA regional offices responsible for them to determine how these states were using the funds and to review NHTSA's oversight of the states' programs. We also interviewed representatives of the Governors Highway Safety Association and other highway safety organizations to obtain their perspectives.

In summary:

¹ U.S. General Accounting Office, *Highway Safety: Research Continues on a Variety of Factors That Contribute to Motor Vehicle Crashes*, GAO-03-436 (Washington, D.C.: Mar. 31, 2003).

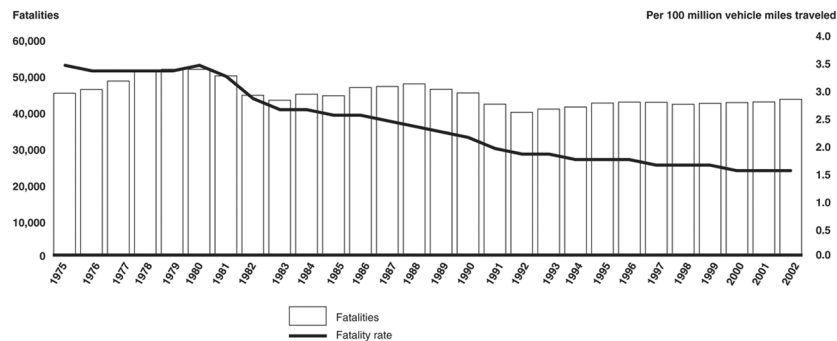
² U.S. General Accounting Office, *Highway Safety: Better Guidance Could Improve Oversight of State Highway Safety Programs*, GAO-03-474 (Washington, D.C.: Apr. 21, 2003).

- Many factors combine to produce circumstances that may lead to a motor vehicle crash—there is rarely a single cause of such an event. Experts and studies have identified three categories of factors that contribute to crashes—human factors, roadway environment factors, and vehicle factors. Human factors involve the actions taken by or the condition of the driver of the automobile, including speeding, being affected by alcohol or drugs, violating traffic laws, inattention, decision errors, and age. Roadway environment factors include the design of the roadway, roadside hazards, and roadway conditions. Vehicle factors include any failures that may exist in the automobile or design of the vehicle. Human factors are generally seen as the most prevalent contributing factor of crashes, followed by roadway environment and vehicle factors.
- About \$2 billion has been provided to states over the last 5 years for highway safety programs under TEA-21. About \$729 million went to the core highway safety program, Section 402, to carry out traffic safety programs designed to influence drivers' behavior in such areas as seat belt use, drinking and driving, and speeding. About \$936 million went to seven incentive programs also designed to encourage state efforts to improve seat-belt use, reduce drinking and driving, and contribute to improvement of state highway safety data. In addition, about \$361 million was transferred from state highway construction to state highway safety programs under provisions that penalized states that had not complied with Federal requirements for passing repeat offender or open container laws to reduce drinking and driving.
- To oversee state highway safety programs, NHTSA focuses on providing advice, training, and technical assistance to the states, which are responsible for setting and achieving highway safety goals. NHTSA can also use management reviews and improvement plans as tools to help ensure that the states are operating within guidelines and achieving the desired results. However, we found that NHTSA's regional offices have made inconsistent use of management reviews and improvement plans because NHTSA's guidance to the regional offices does not specify when to use them. As a result, some states do not have improvement plans, even though their alcohol-related fatality rates have increased or their seat-belt usage rates have declined. GAO recommended that NHTSA provide guidance to its regional offices on when it is appropriate to use these oversight tools. NHTSA is taking steps to improve this guidance.

Background

Since 1975, progress has been made in reducing the number of fatalities on our Nation's roads, but in recent years improvement has slowed and some downward trends have been reversed. As figure 1 shows, from 1975 through 2002, annual fatalities decreased from 44,525 to 42,850, or by about 4 percent. Annual fatalities reached a low of 39,250 in 1992 and have been edging up since then. During the same period, the fatality rate per 100 million vehicle miles traveled (VMT), a common method of measurement, dropped from 3.35 in 1975 to 1.51 in 2002, or by about 55 percent. Since 1992, the decline in the fatality rate has slowed.

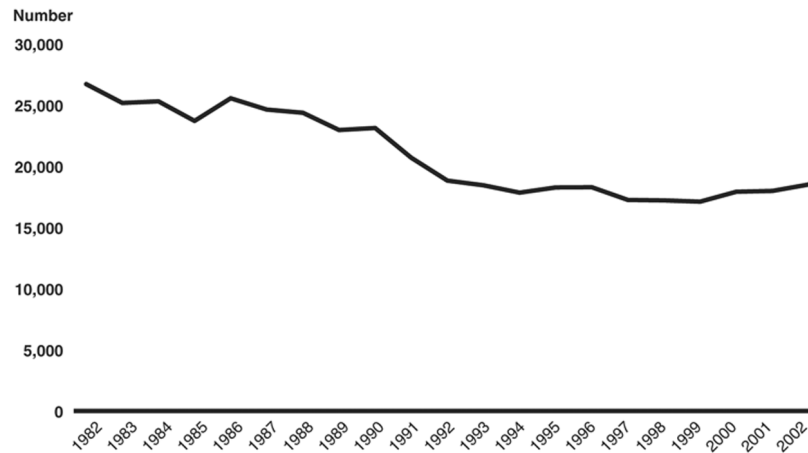
Figure 1: Fatality Statistics, 1975–2002



Source: GAO analysis of NHTSA data.

Alcohol-related crashes account for a large portion of traffic fatalities.³ Between 1982, when NHTSA began tracking alcohol-related fatalities, and 2002, about 430,000 people died in alcohol-related crashes. In 1982, NHTSA reported 26,173 alcohol-related deaths, representing 59.6 percent of all traffic fatalities. Alcohol-related fatalities declined to 39.7 percent of all traffic fatalities in 1999, but rose to 41.9 percent of fatalities—in 2002. (See fig. 2.)

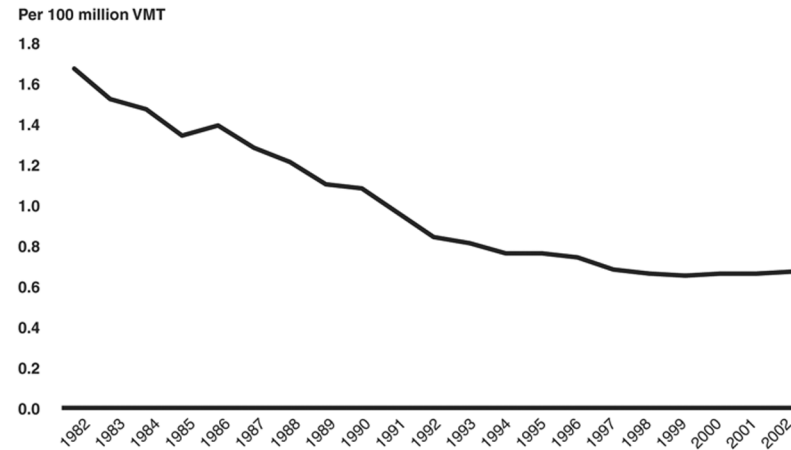
Figure 2: Number of Alcohol-Related Fatalities, 1982–2002



Source: GAO presentation of NHTSA data.

As figure 3 shows, alcohol-related fatality rates declined steadily (except in 1986) from 1982 through 1997. However, there has been almost no further decline in rates since 1997, when the rate was 0.65 fatalities per 100 million VMT. In 2002, the rate was 0.64 fatalities per 100 million VMT.

Figure 3: Rate of Alcohol-Related Fatalities, 1982–2002



Source: GAO presentation of NHTSA data.

³Alcohol-related fatalities represent crash victims killed with blood alcohol concentrations at any level above .01. At this concentration, a person's blood contains 1 one-hundredth of 1 percent alcohol.

The overall decline in fatalities over the past quarter century is attributable to many actions. For example, during this period, a number of countermeasures were developed and installed in new vehicles. Seat belts and air bags are credited with saving thousands of lives—seat-belt use rates have grown from about 14 percent in 1983 to over 75 percent nationwide today. In addition, Federal and state programs have resulted in improvement in some areas. For example, increased enforcement and greater public awareness of the dangers of drinking and driving have, according to NHTSA officials, reduced the incidence of casual drinkers becoming traffic fatalities. Having made improvements in reducing causal drinking and driving, NHTSA and the states are now faced with more challenging problems such as alcohol dependency, which has hindered progress in reducing alcohol-related fatalities.

A Variety of Factors Contribute to Motor Vehicle Crashes:

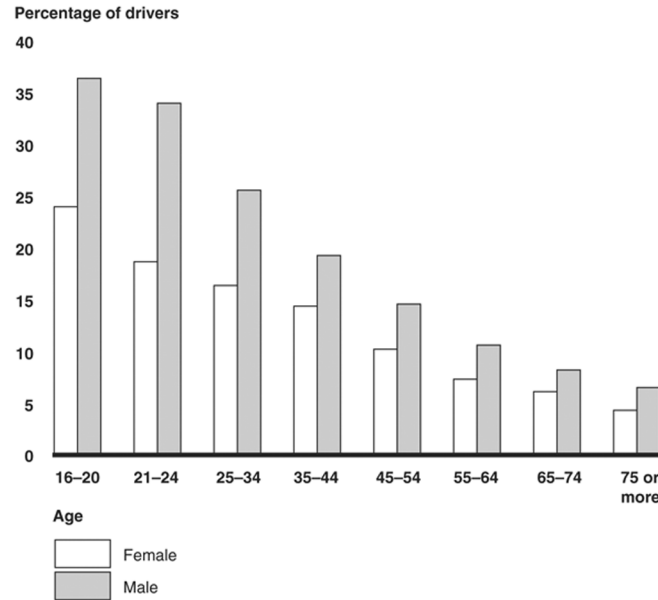
Multiple factors typically combine to produce circumstances that lead to a motor vehicle crash—there is rarely a single cause for such an event. For example, it would be challenging to identify a single cause of a crash that occurred on a narrow, curvy, icy road when an inexperienced driver, who had been drinking, adjusted the radio or talked on a cell phone.

In examining the causes of motor vehicle crashes, a number of experts and studies identified three categories of factors that contribute to crashes: human factors, roadway environment factors, and vehicle factors. Human factors involve the actions taken by or the condition of the driver of the automobile, including speeding, being affected by alcohol or drugs, violating traffic laws, inattention, decision errors, and age. Roadway environment factors include the design of the roadway, roadside hazards, and roadway conditions. Vehicle factors include any failures that may exist in the automobile or design of the vehicle. Human factors are generally seen as the most prevalent contributing factor of crashes, followed by roadway environment and vehicle factors.

Two examples of human factors that have a significant impact on traffic crashes are speeding and alcohol. Speeding—driving either faster than the posted speed limit or faster than conditions would safely dictate—contributes to traffic crashes. Speeding reduces a driver's ability to steer safely around curves or objects in the roadway, extends the distance necessary to stop a vehicle, and increases the distance a vehicle travels when a driver reacts to a dangerous situation. According to our analysis of NHTSA's databases, from 1997 through 2001, speeding was identified as a contributing factor in about 30 percent of all fatal crashes, and almost 64,000 lives were lost in speeding-related crashes. From 1997 through 2001, 36 percent of male drivers and 24 percent of female drivers 16 to 20 years old who were involved in fatal crashes were speeding at the time of the crash. The percentage of speeding-related fatal crashes decreases as driver's age.⁴ (See fig. 4.)

⁴It should be noted that in addition to the factors discussed, other elements, such as nonuse of seat belts or other occupant-protection measures, might have affected the number of fatalities.

Figure 4: Speeding Drivers in Fatal Crashes, by Age and Gender, 1997–2001



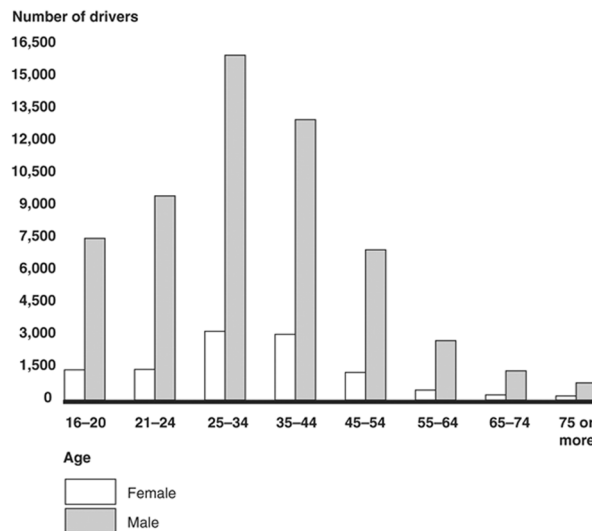
Source: GAO analysis of NHTSA data.

Alcohol consumption is a significant human factor that contributes to many motor vehicle crashes. It is illegal in every state and the District of Columbia to drive a motor vehicle while under the influence of, impaired by, or with a specific level of alcohol or drugs in the blood. Only Massachusetts lacks a law that defines the specific concentration of blood alcohol at which it becomes illegal to drive.⁵ As of January 2003, 17 states had set the standard at 0.10 percent blood alcohol concentration (BAC) (the level at which a person's blood contains 1/10th of 1 percent alcohol) and the remaining states had set the standard at 0.08 percent BAC.⁶ NHTSA recently reported that in 2002, 42 percent of all fatal crashes were alcohol-related, and nearly 18,000 people died in alcohol-related crashes. BACs of 0.08 or greater were reported for about 87 percent of the alcohol-related fatalities in 2002. For each age category, more male than female drivers were involved in fatal alcohol-related crashes (see fig. 5).

⁵ BAC of 0.08 percent in Massachusetts is evidence of alcohol impairment, but it is not illegal per se.

⁶ Louisiana, New York, and Tennessee have 0.08 percent blood BAC laws that will be effective during the latter half of 2003.

Figure 5: Drivers in Alcohol-Related Fatal Crashes, by Age and Gender, 1997–2001



Source: GAO analysis of NHTSA data.

There is also a strong relationship between a driver's age and the likelihood of being involved in a crash. While age, in itself, would not be the cause of the crash, some of the characteristics displayed at various ages can lead to a higher probability of being involved in traffic crashes. Younger drivers' crash rates are disproportionately higher mainly because of a risky driving style combined with driving inexperience. Older drivers also pose greater risks; fatal crash rates are higher for the elderly than for all but the youngest drivers.

The roadway environment—factors that are external to the driver and the vehicle that increase the risk of a crash—is generally considered the second most prevalent contributing factor of crashes. Roadway environment factors that contribute to, or are associated with, crashes include the design of the roadway, including features such as medians, narrow lanes, a lack of shoulders, curves, access points, or intersections; roadside hazards or features adjacent to the road that vehicles can crash into such as, poles, trees, or embankments; and roadway conditions (for example, rain, ice, snow, or fog). However, the contribution of these factors to crashes is difficult to quantify. NHTSA's crash databases contain limited data on roadway design features at the crash location or immediately preceding the crash location. In addition, the significance of adverse weather, including both slippery roads and reductions in driver visibility, is not fully understood because there are no measurements (for example, VMTs under adverse weather conditions) available to compare crash rates under various conditions.

Vehicle factors can also contribute to crashes through vehicle-related failures and vehicle design characteristics (attributes that may increase the likelihood of being involved in certain types of crashes). While such recent events as the number of crashes involving tire separations have highlighted the importance of vehicle factors, data and studies generally show, and experts believe, that vehicle factors contribute less often to crashes than do human or roadway environment factors. For example, our analysis of NHTSA's data found that of the 32 million crashes from 1997 through 2001, there were about 778,000 crashes (about 2 percent) in which police determined that a specific vehicle-related failure might have contributed to the crash. In addition, vehicle design has been shown to affect handling in particular types of maneuvers. For example, high-performance sports cars have very different handling characteristics from those of sport utility vehicles (SUVs). Recent changes in the composition of the nation's vehicle fleet, in part attributable to the purchase of many SUVs, have resulted in an overall shift toward vehicles with a higher center of gravity (more top-heavy), which can roll over more easily than some other vehicles. Rollover crashes are particularly serious because they are more likely to re-

sult in fatalities. Our analysis of NHTSA's 2001 data shows that passenger cars were the vehicle type least likely to roll over in a crash; passenger cars rolled over in about 2 percent of all crashes and rolled over nearly 16 percent of the time in fatal crashes. In comparison, our analysis shows that SUVs were over three times more likely to roll over in a crash than were passenger cars; that is, they rolled over in almost 6 percent of all crashes. In addition, the proportion of SUVs that rolled over in fatal crashes was over twice as high as the proportion of passenger cars. NHTSA recently reported that in 2002, fatalities in rollover crashes involving SUVs and pickup trucks accounted for 53 percent of the increase in traffic deaths.

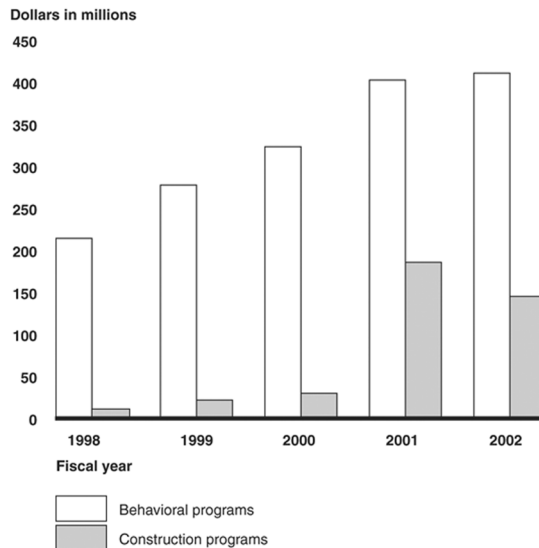
Funding for State Highway Safety Programs Has Grown

About \$2 billion was provided to the states for highway safety programs for the first 5 years under TEA-21, from Fiscal Years 1998 through 2002. TEA-21 funded state programs three ways as follows:

- The core Section 402 State and Community Safety Grants Program provided \$729 million for behavioral highway safety programs.
- Seven incentive programs provided \$936 million. States could use funds from two of the incentive programs for behavioral highway safety programs or highway construction. As a result, states allocated about \$789 million of the incentive funds to behavioral programs and \$147 million to highway construction.
- Two penalty transfer programs provided \$361 million in Fiscal Years 2001 and 2002. These programs transferred funds from highway construction to highway safety programs to penalize states for not complying with Federal requirements for passing laws prohibiting open alcoholic beverage containers in cars and establishing specific penalties for people convicted of repeat drinking and driving offenses.⁷ States could use both penalty transfers for either alcohol-related behavioral safety programs or highway safety construction projects. As a result, states allocated about \$113 million of the transfer funds to behavioral programs and \$248 million (about 66 percent) to highway construction programs to eliminate road safety hazards.

Funding for states' behavioral safety programs nearly doubled from Fiscal Year 1998 through Fiscal Year 2001. (See fig. 6.)

Figure 6: NHTSA Highway Safety Funding to States, Fiscal Years 1998–2002

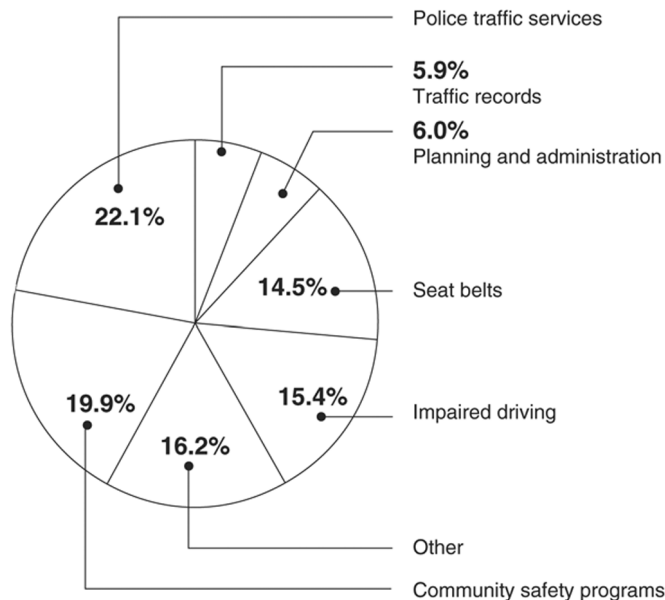


Source: GAO analysis of NHTSA data.

⁷TEA-21, as amended through the TEA-21 Restoration Act, established these two penalty provisions.

Funding for the core Section 402 State and Community Grants Program has been fairly level, in constant dollars, since 1991. Four major program categories account for most of the states' use of the \$729 million in Section 402 State and Community Grants funds provided between 1998 and 2002: police traffic services, impaired driving, seat belts, and community safety programs. Combined, these four categories account for about 72 percent of the grant funds. Figure 7 shows how the states used their Section 402 State and Community Grants funds during the first 5 years covered by TEA-21.

Figure 7: Uses of State and Community Grants Funds, Fiscal Years 1998–2002



Source: GAO analysis of NHTSA data.

Note: "Other" includes roadway safety, pedestrian safety, emergency medical services, speed control, driver education, motorcycle safety, school bus safety, and paid advertising to support Section 402 programs.

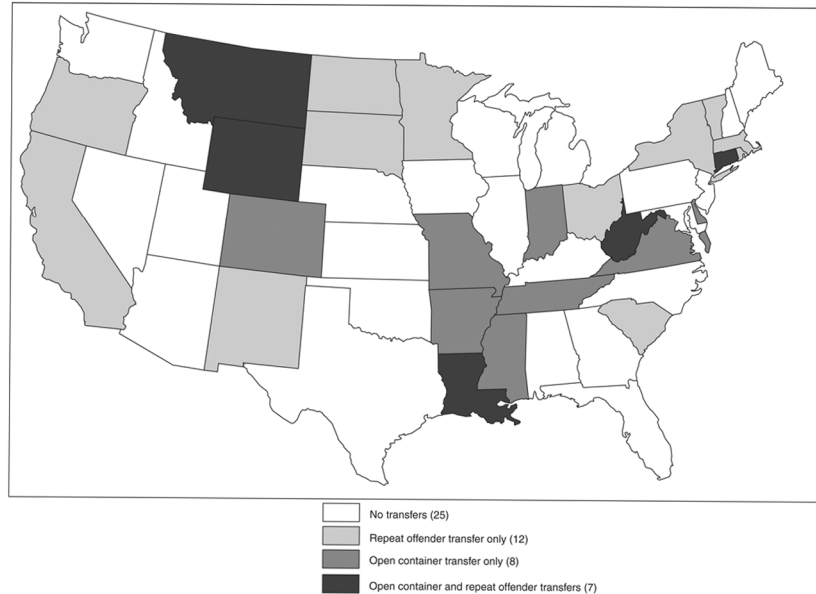
The seven incentive programs under TEA-21 also provide funds to encourage greater seat belt use, implement programs or requirements to reduce drinking and driving, and contribute to the improvement of state highway safety data. The funding available for these programs grew from \$83.5 million in 1998 to \$257.2 million in 2002. While most of these funds were used for funding additional behavioral safety programs, the act provided that two programs, the 0.08 percent Blood Alcohol Concentration Incentive (Section 163) and the Seat-belt Use Incentive (Section 157) programs, could be used for any highway purpose—highway construction, construction that remedied safety concerns, or behavioral safety programs. Appendix I contains additional information on the seven incentive programs.

Under the penalty transfer programs, the states that did not adopt either the open container or the repeat offender requirements were required to transfer a specified percentage of their Federal highway construction funds to their Section 402 State and Community Grants Program.⁸ During Fiscal Years 2001 and 2002, the first 2 years that funds have been transferred, 34 states were subject to one or both of the penalty provisions, and about \$361 million was transferred from these states' Federal Aid Highway Program funding. (See fig. 8.) States can keep transferred funds in their Section 402 State and Community Grants program when they are to be used to support behavioral programs designed to reduce drunk driving or the

⁸For the first 2 years, the transfer penalty was 1.5 percent of the funds apportioned to the state's National Highway System, Surface Transportation Program, and Interstate Maintenance funding, for each penalty. This amount rose to 3 percent for each penalty in October 2002.

states can allocate any portion of the transferred funds to highway safety construction projects to eliminate road safety hazards. States varied greatly in their decisions on how to use these funds, from allocating 100 percent of the funds to highway safety construction projects to allocating 100 percent of the funds to highway safety behavioral projects. Overall, the states allocated about 69 percent to highway safety construction projects under the Hazard Elimination Program, and 31 percent went to highway safety behavioral projects. Twenty-eight of the 34 states with transferred funds allocated a majority to highway safety construction activities under the Hazard Elimination Program.

Figure 8: States Transferring Funds under Open Container and Repeat Offender Provisions, October 1, 2002



Source: GAO analysis of NHTSA data.

Note: Alaska (both transfers), District of Columbia (no transfers), Hawaii (no transfers), and Puerto Rico (both transfers) are not shown.

NHTSA Has Not Made Consistent Use of Oversight Tools

NHTSA's 10 regional offices focus on providing advice, training, and technical assistance to the states, which are responsible for setting and achieving their highway safety goals. In addition, among other things, NHTSA uses management reviews and improvement plans as oversight tools to help it ensure that states' programs are operating within guidelines and are achieving desired results.

NHTSA regions can conduct management reviews to help improve and enhance the financial and operational management of the state programs. In conducting these reviews, a team of NHTSA regional staff visit the state and examine such items as its organization and staffing, program management, financial management, and selected programs like impaired driving, occupant protection, public information and education, and outreach. The team's report comments on the state activities and may make recommendations for improvement. For example, in some management reviews we examined, NHTSA regions found instances of inadequate monitoring of subgrantees, a lack of coordination in state alcohol program planning, costs incurred after a grant was over, and improper cash advances by a state to subgrantees. However, NHTSA has no written guidance on when to perform management reviews. We found that the management reviews were not being conducted consistently. For example, in the six NHTSA regions we visited, we found goals of conducting state management reviews every 2 years, on no set schedule, or only when requested by a state.

Improvement plans are another tool for providing states oversight and guidance. According to program regulations, if a NHTSA regional office finds that a state is not making progress toward meeting its highway safety goals, NHTSA and the state

are to develop an improvement plan to address the shortcomings. For example, NHTSA, working with one state, developed an improvement plan that identified specific actions that NHTSA and the state would accomplish to improve alcohol-related highway safety. The plan included such actions as implementing a judicial education program, requiring all police officers working on impaired driving enforcement to be adequately trained in field sobriety testing, and developing a statewide system for tracking driving-while-intoxicated violations.

NHTSA regional offices have made limited and inconsistent use of improvement plans. Since 1998, only seven improvement plans have been developed. In addition, we found that the highway safety performance of a number of states that were not operating under improvement plans was worse than the performance of other states that were operating under such plans. For example, we compared the performance of the three states that had developed improvement plans for alcohol-related problems with the performance of all other states. We found that for seven states, the rate of alcohol-related fatalities increased from 1997 through 2001 and their alcohol-related fatality rates exceeded the national rate in 2001. Only one of these 7 states was on an improvement plan. Furthermore, for one state that was not on an improvement plan, the alcohol-related fatality rate grew by over 40 percent from 1997 through 2001 and for 2001 was about double the national average. The limited and inconsistent use of improvement plans is due to a lack of specificity in the criteria for requiring such plans.

To ensure more consistent use of management reviews and improvement plans, we recommended in our report that NHTSA provide more specific guidance to the regional offices on when it is appropriate to use these oversight tools. In commenting on a draft of the report, NHTSA officials said they agreed with the recommendations and had begun taking action to develop criteria and guidance to field offices on the use of management reviews and improvement plans.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions that you or members of the Committee may have.

Appendix I: Highway Safety Incentive Grant Programs

Incentive category	Title of incentive:	Description of incentive
Seat belt/occupant protection incentives;	Section 157 Safety Incentive Grants for the Use of Seat Belts	Creates incentive grants to states to improve seat belt use rates. A state may use these funds for any highway safety or construction program. The act authorized \$500 million over 5 years.
	Section 157 Safety Innovative Grants for Increasing Seat-Belt Use Rates	Provides that unallocated Section 157 incentive funds be allocated to states to carry out innovative projects to improve seat belt use.
	Section 405 Occupant Protection Incentive Grant; Description of incentive	Creates an incentive grant program to increase seat belt and child safety seat use. A state may use these funds only to implement occupant protection programs. The act authorized \$68 million over 5 years.
	Section 2003(b) Child Passenger Protection Education Grants	Creates a program designed to prevent deaths and injuries to children, educate the public on child restraints, and train safety personnel on child restraint use. The act authorized \$15 million over 2 years for Section 2003(b). However, the Congress appropriated funds to support the program for 2 additional years.
Alcohol incentives	Section 163 Safety Incentives to Prevent the Operation of Motor Vehicles by Intoxicated Persons	Provides grants to states that have enacted and are enforcing laws stating that a person with a blood alcohol concentration of 0.08 or higher while operating a motor vehicle has committed a per se driving-while-intoxicated offense. A state may use these funds for any highway safety or construction program. The act provides \$500 million over 6 years for the program.
	Section 410 Alcohol Impaired Driving Countermeasures	Revises an existing incentive program and provides grants to states that adopt or demonstrate specified programs, or to states that meet performance criteria showing reductions in fatalities involving alcohol-impaired drivers. The act provides \$219.5 million over 6 years, which is to be used for alcohol-impaired driving programs.

Incentive category	Title of incentive:	Description of incentive
Data incentives	Section 411 State Highway Safety Data Improvements	Description of incentive: Provides incentive grants to states to improve the timeliness, accuracy, completeness, uniformity, and accessibility of highway safety data. The act provides \$32 million over 4 years.

Source: GAO presentation of NHTSA data.

Senator SMITH. Thank you very much. We're pleased to be joined by the Ranking Member of the Subcommittee. Senator Dorgan, if you have an opening statement, we will then go to questions.

**STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator DORGAN. Senator Smith, thank you very much. I'm sorry that I was not here at the beginning, I have had a chance to read the testimony. Dr. Runge, good to see you again. Mr. Guerrero, thank you for your testimony.

This is a really important issue. As we begin the reauthorization of the Federal Highway Program, the issue of highway safety programs I think is really critically important to do and to do right, and I'm very concerned about a number of issues. I will ask questions about them especially, but I know that the chart shows and Mr. Guerrero's testimony suggests that we now see a beginning of the movement back up in highway deaths, especially due to drunk driving and alcohol-related deaths.

And I'm concerned, for example, that the proposal that we have from the Administration would completely eliminate the open container and the repeat offender incentive programs. I have felt very strongly for a long while and I have tried very hard to get through the Senate, or through the Congress I should say, a prohibition on open containers in automobiles. And I finally got it through after I guess I worked 6, 8, 10 years on it, I finally got it through, but it's pretty weak-teethed. I mean, it doesn't have sanctions that are dramatic.

So we still have something like 13 states that don't prohibit open containers in automobiles and we still have some circumstances in this country where I understand it is legal to put your key in the ignition and one hand on the steering wheel and another around the neck of a bottle of Jim Beam, and drive off and drink, and you're perfectly legal. There ought not be anywhere in America where that exists, nowhere. There ought not be an intersection in this entire country where it ought to be legal to drink and drive.

And so, we have a lot yet to do and I am especially concerned about open containers, I'm concerned about repeat offenders. There was a story in my state recently about a fellow that has been, I think he has now 12 or 14 drunk driving convictions, same person. The .08, we have I think a dozen or so states that are not yet in compliance with that, so we have a lot to do. I really appreciate the opportunity to be here and to be able to ask a few questions.

Let me yield to you, Mr. Chairman. I will ask some questions following you and Senator Lautenberg.

Senator SMITH. The Senator makes some very good points that are concerns of mine as well.

Dr. Runge, with SAFETEA, you addressed it briefly, but I wonder if you could expand on it, about rewarding a state with one times the portion of their respective Section 402 funds if it adopts a primary seat belt enforcement law before the end of this year. I guess my concern is, representing a state that has done this long ago and has been very successful, we are obviously concerned that we would be penalized apparently in the formulation that you're coming up with, and I wonder if you could speak to that. How is it fair for states who have worked hard to, on this issue, to lose funding when we're trying to get other states up? Why are we talking away from those who are trying to maintain their good performance?

Dr. RUNGE. I appreciate the question, Mr. Chairman. We thought long and hard about this at DOT when formulating this plan, and what we knew that we needed first and foremost was an effective incentive program to coax states to do the right thing, to pass a primary safety belt law, and that there should be enough reward for them that they would actually pay attention to it. In the past there have been incentives that have been very moderate at best in their effectiveness in getting states to pay attention, and that has resulted in sanctions. The .08 is a classic example.

What the Administration chooses to do now is to put some real money behind this attempt to get states to do it. And given a fixed pool of resources, we also did not want to penalize those states who had already done the right thing, so we struck a balance. And that is to get states to pay attention, we believe that five times their 402 formula amount would get them to pay attention. Florida, \$37 million, for instance. You know, real money. Arizona, I think \$10 or \$12 million. However, there is not unlimited resources and the resource pool dictated that we find something to do for the states that have already done it, so a one-time shot of 402 into their coffers we thought would be a handsome reward.

I stirred over this and had to go back to the parable of the talents. And you know, life is not completely fair, but workers in the vineyard who have done the right thing do get paid.

Senator SMITH. Well, I mentioned in my opening statement one of the advantages, and I suppose there are some disadvantages of requiring all states to enact primary seat belt laws, and I referenced the "Click It or Ticket" program. Do you have a comment about that?

Dr. RUNGE. There is no reason why every state in the country should not have a primary safety belt law. I would also add to my prior statement that states who have one, California, Oregon, Washington, Hawaii, Puerto Rico, are already above 90 percent. Ninety percent is not a drain, but they got there because they had a primary safety belt law and they had effective high visibility enforcement. The portion of the population that does not currently buckle would, and in fact does, because of either the desire to obey the law or the wanting to avoid a ticket.

Congress has been very good about giving us the opportunity to have high visibility enforcement campaigns such that we had one state, my state in 1993 that did it, and in 2001, 8 states in the Southeast, last year 39 states, this year 43—I'm sorry, last year 29

states, this year 43 states. And Congress gave us the money to run a national ad.

So I hope that you will see these ads. You may not because they're not really aimed at your demographic, Senator, they are for young men 15 to 34 primarily, but you may see our ads. And we do believe that that will be effective in getting people to avoid the ticket. So, we are actually very proud of this. We are happy that we were able to raise belt use 4 percentage points over the last 2 years, which equals 500 lives a year, and over 8,000 serious injuries that have been avoided.

Senator SMITH. NHTSA state safety officials are prohibited from lobbying State legislators on highway legislation. Do you believe this impacts your ability to pass these laws?

Dr. RUNGE. Well, first and foremost, State laws are up to the State legislatures, but I do believe that State legislatures should have the benefit of the latest data, they should understand what the consequences of passing or not passing laws are. And the prohibition on our participating in that process has a very chilling effect on our outreach into the states, so it has affected our ability to do so.

Florida, for instance, their bill died last night. That means that 200 people will die this year that would not die otherwise. Very sad. But we had to remain silent as soon as that bill had a number and was introduced, and I do believe that had an effect.

Senator SMITH. Senator Dorgan noted the slight increase in fatalities this year. To what do you attribute that primarily?

Dr. RUNGE. Well, first of all, the vehicle miles traveled went up about 2 percent, and our fatality rate was exactly what it was last year, 1.51 per 100 million vehicle miles traveled. So the actual numbers increase is due to increased exposure.

Senator SMITH. OK.

Dr. RUNGE. But the reason that we are not making progress, I really do believe is our failure to get more states to enact primary safety belt laws and take a serious—to get serious about impaired driving. It's just not happening.

Senator SMITH. My first round is over. Senator Lautenberg.

Senator LAUTENBERG. Thank you very much, Mr. Chairman. Dr. Runge, is it a soft G or a hard G?

Dr. RUNGE. It's a hard G, thanks.

Senator LAUTENBERG. Runge, thank you. That's why I never heard of anybody using the runge of a ladder, right?

Senator DORGAN. That's right.

Dr. RUNGE. You will now, though, I'm sure.

Senator LAUTENBERG. The question about whether or not sanctions are, or incentives are used is one that has interested me, and I have perhaps been the grinch, but sanctions work, incentives often don't. And I don't know whether it's just a coincidence of things, but I was making notes while the discussion was going on with my colleagues, that the 14 states—only 14 states—I find shocking, have open container laws. And I know how hard Senator Dorgan worked on that, and I think that's an incentive program, is it not?

Dr. RUNGE. It's now a—there's a penalty. We currently have a penalty. And by the way, Senator Dorgan, that does not go away with the enactment of SAFETEA.

Senator LAUTENBERG. Has that been primarily an incentive law in the past?

Dr. RUNGE. I can comment specifically about your question when talking about .08.

Senator LAUTENBERG. No, I'm talking now about the open containers. It's 14 states, right?

Dr. RUNGE. I can't tell you the detail.

Senator LAUTENBERG. OK. Seat belts. Are seat belts primarily incentive or do they carry sanctions?

Dr. RUNGE. There is currently no incentive or sanction right now. It's just cajoling, begging and pleading.

Senator LAUTENBERG. Well, when 60 percent of the fatal accidents include people who were not wearing seat belts, that tells you that there is something lacking in terms of an incentive. And that too is an outrage because it is not only the person who dies, but rather the families or the other people who may be injured in an accident of that type.

Now, I was the author of the 21 drinking age bill, and I think one of the reasons in addition to population increases that we are seeing an increase in alcohol-related injuries and death is law enforcement. I was at a function that happened to be a rodeo out in one of the western states, and I noticed a lot of very young people drinking beer.

And there was a police officer standing there, and I said, "Officer, do you know what the age for legal drinking is?" And he said, "Yes, it's 21." So I said, "Do these kids look like they're 21?" And he said, "Sir, I do traffic, that's my job. This isn't traffic."

And when you see now this horrible incident in a high school where the girls assaulted one another in high school, and the parents were accused of supplying the beer, I think—and by the way, with 21 came penalties and every state, every state, and the most reluctant was D.C. and another state where there is a lot of beer manufactured, but they all came along.

I'm distressed now that we don't have the .08 compliance to the extent that we'd like. We have 38 states that have complied. One of the 12 that haven't is New Jersey, and there are campaigns against these. Mr. Chairman, I was asked not to go to a fairly responsible restaurant that I used to go to frequently, because the owner said I was driving the restaurants out of business. That was 1981 when the 21 drinking bill was signed into law.

I think the difference between whether sanctions are put into place, and I frankly, Mr. Chairman—Dr. Runge, would—did you say soft or hard?

Dr. RUNGE. Hard.

Senator LAUTENBERG. Dr. Runge, if it's important enough, if it saves lives, then I think penalties are appropriate. And I know there are lots of people who don't like them, but the question is whether you like the result, not whether you like the technique. And if you like the result, then you have to do it.

Mr. GUERRERO. Senator Lautenberg, if I could very briefly just identify in our report, the GAO report, when you're talking about

results, the two penalty provisions we're talking about here for open containers and for repeat offenders, before they were applied, only 3 states were complying with both requirements and now 25 states are, so I think you see an indication of results.

Senator LAUTENBERG. I appreciate that, thank you very much. So that begins to tell us something, Mr. Chairman.

Last, Senator DeWine and I, Dr. Runge, are authoring legislation that provides funding for a nationwide campaign to "Click It or Ticket" for highway safety. How do you feel about the effectiveness of such campaigns, does NHTSA have tools to carry out nationwide campaigns on drunk driving?

Dr. RUNGE. Yes, sir, we are currently doing that. We have the largest "Click It or Ticket" campaign ever going on right now as we speak. It's going on in 43 states. Actually it's going on nationwide; 43 states have chosen to spend some of their own money to augment the national money. Of states that used the "Click It or Ticket" model last year in our program, they realized a 9 percentage point increase in belt usage, versus states that did not use an enforcement message that had basically zero improvement.

So we have the data, I will be happy to give you the report. It's written up. Congress also gave us \$1 million to evaluate it, which we did, and we'll send that over to you. There is no question that it's effective for this portion of the population.

Senator LAUTENBERG. Mr. Chairman, can I have one more question and then I promise not to ever ask—well, not ever, but I would ask you this about .08. This .08 blood alcohol content, that begins a state of impairment for lots of drivers, and we have terrible stories about accidents, one not far from here in Maryland that I talked about a couple of years ago, a mother standing waiting for the school bus in the morning holding her child's hand, but couldn't pull the child out of the way when a woman drunk at 8 o'clock in the morning came across the sidewalk and struck her child, and killed her in front of her eyes, and .08 was the blood alcohol content.

Do you think that there is sufficient evidence for us to move ahead aggressively with the .08? States are now beginning, including my own, and in 2004 they are going to hit the first of the penalties, and I think that we will see an awakening, but do you agree with us about the need to get that reduction in blood alcohol?

Dr. RUNGE. Yes, sir, .08 is an effective tool. If I could just expand a little bit about that for a minute, you know, impairment in driving begins after the first drink. There is a continuum that occurs, particularly exacerbated by over-the-counter medications and drowsiness and other things. But after one or two drinks, you may be too impaired to drive; .08 is per se impairment, of course, which means by law you are impaired whether you can do cartwheels or walk on your hands or whatever. And clearly in our simulator test, we know that at .08, virtually all drivers show a large decrement in their ability to handle a vehicle.

So, I never want to make the case that being at .07 is OK. You may get away with it, you may not be impaired, you may get from the pub to your house like you have done 200 times before, and do just fine. But at .08 you are per se impaired. So .08 has, because

of the states that are now passing these laws, we will have a better opportunity to evaluate its effectiveness in the coming years.

Prior to TEA-21, I think there were only 10 or 11 states that had .08. During the incentive phase, there were 3 more states that passed .08 laws. And as soon as the penalty phase kicked in, now we have 39. So I would hope that states given proper incentives would do the right thing. There is no question that sanctions work. It's a question about at what cost.

Senator LAUTENBERG. Sanctions and incentives. Thanks very much. Thanks, Mr. Chairman.

Senator SMITH. You bet. Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you very much.

Let me go back to this open container issue and say to my colleague from New Jersey, Senator Lautenberg, the TEA-21 provision transferred 3 percent of the states' construction money into their safety money account if they didn't enact the open container law. The states were allowed to use this safety money for construction to eliminate highway safety hazards and frankly, that's where most of that money has gone. So it's a penalty but it's not a penalty that shakes someone in their boots here. I mean, you know, they understand that they are not going to lose the money, and the circumstances are such that we have made some progress here, but we are not requiring states to pass an open container prohibition and we ought to require that.

You can debate various pieces of public policy and make a pretty good case on the other side or on both sides, but on open container, I don't know how you make a case on the other side of that one. Start with the issue of the driver drinking. Can anybody make the case that it ought to be legal for a driver to drink while they drive? The answer is hell no. I mean, there isn't any sense at all that would persuade you that's the thing to do. And I don't think there is any case that can be made that in a vehicle moving on America's roadways and highways that anyone ought to feel that there ought to be an open container of alcohol in the vehicle.

So, I mean this is one that we really ought to do and really ought to require. Is it a mandate to require it? Sure, it's a mandate, but it's just a mandate that has some common sense attached to it.

So let me ask a couple of questions, if I might. My understanding is that the SAFETEA program freezes safety grants and maybe Dr. Runge, you can help me go through this, at \$447 million in Fiscal Year 2004, the same level as Fiscal Year 2003, but there would be flexibility for the states to use this money in a manner that could move it both toward safety and away from safety, as I understand it. Is that how you understand the proposals this year?

Dr. RUNGE. If I could take a second to walk you through our rationale here?

Senator DORGAN. Yes.

Dr. RUNGE. First of all, the rationale is to take 7 grant programs and consolidate them into basically 3. The consolidated 402 program would have level 402 funding across the two authorizations, but on top of that, there would be two additional pieces of the 402 program, one for safety belt usage, which has this incentive to pass a primary belt law and additional funding to enforce it. And then a third piece, which is this impaired driving initiative that I'm sure

we will talk some more about, which is to get money into the states where it is most needed, states that have extraordinarily high fatality rates for alcohol and high alcohol-rated fatality numbers, because they are just not making any progress and they need basic judicial reform and law enforcement support and so forth.

So, first of all, it is level funding across the formula, but the funds that were over in the Federal Highway Administration that were eligible for hazard elimination and other things, are now going to be brought over into the NHTSA side and used for performance incentive grants.

Now, the second most important piece of this is that every state is required to submit a comprehensive highway safety plan that is based on their particular State data, so the problems of Utah may be very different from the problems in Massachusetts and by regulation, we will specify that all players have to be at the table when this highway plan is created, and it must be data-based. So we also have a grant program going out to states of \$50 million a year to help improve their State traffic records and their data. So that if a state has a very low alcohol fatality rate, like Utah at .29 fatalities, they may put less of their resources into alcohol programs than say South Carolina, which has an alcohol fatality rate of 1.27. And we know the fatality rates, we don't need additional data to figure that out, but the states do need additional data to pinpoint their problems infrastructure as well as behavioral. So the highway safety plan, therefore, will determine how those funds are flexed.

Senator DORGAN. Let me just ask about that, because you used the word flexed and you started with the word flexibility. The report that was done by Mr. Guerrero describes on page 18 exactly what's happened with flexibility. Overall, the states allocated nearly 70 percent to highway safety construction project, and 31 percent went to the highway safety behavioral programs, that is, the programs dealing with drunk driving and other issues, when they had the choice. Give them the choice, I guarantee you what the choice is going to be.

The choice is going to be to build, and they love to build, I understand that, they're builders. What is the Department of Transportation? They don't put their key in the lock in the morning to be something other than builders. They're building and maintaining highways, roads and bridges. So give them a choice, give them flexibility, it turns out as it did on page 18. Is there a reason that you should tell us to expect something other than that, especially given the fact that Mr. Guerrero has told us what the choices are among the states?

Dr. RUNGE. Well, I would hope that our knowledge of history would allow it not to repeat itself. The A in SAFETEA is accountability and we are putting a lot of effort into this comprehensive highway safety plan. And I need to remind the Committee that money that was not eligible for behavioral programs such as belts and alcohol under TEA-21 will be eligible for behavioral programs under SAFETEA if it's passed.

Senator DORGAN. I understand, but isn't this a triumph of hope over experience? I mean, I understand you hope, but we understand the experience, so we're about the business of legislating and not hoping, so if we legislate based on what we know, and what

we know is page 18 of this report that says give them the flexibility and you're going to move money away from the critical programs that Senator Lautenberg, I, Senator Smith and others really believe that we ought to address.

With your flexibility and with your consolidation, we are eliminating the incentives of the states to enact these laws that we have just been talking about. We're eliminating the specific incentives because we're saying generically, use your judgment in the states to decide how you want to use this money. Page 18 says what they're going to do is run off and start building with it. So tell me the basis for your hope, Dr. Runge.

Dr. RUNGE. Well, during TEA-21, 4 states had a repeat offender law and it went to 33. Open container, 15 states went to 36, .08 went from 10 to 39. They were held accountable for their decisions. Now those programs are not going away, .08 sanctions, repeat offender, open container, they are not going away as a result of SAFETEA. What I hope we can get Congress' backing on is the accountability. The GAO report basically is flexibility without accountability. The Secretary is absolutely intent on safety being the product of this legislation. I have every confidence in the world that our holding the states accountable for their highway safety plan so they can address their highway safety problems is going to be the underpinning of this.

Senator DORGAN. It's interesting. I have heard this discussion in two of my other appropriations subcommittees by other parts of the Administration. They want flexibility and they want to consolidate, and what that has meant in every circumstance is less oversight for specific goals that we have here in Congress. I don't frankly support, Dr. Runge, the consolidation. What I support is deciding as a Congress what we're willing to spend money on, and making states accountable with respect to those, yes, mandates, I'm not a bit bashful about using the term mandate when we're talking about demanding that we save lives and get drunks off the roads in this country.

And all of you know—I mean, these safety issues, I especially—there are—let me just say this. There are issues other than drunk driving. Because of my family experience, I am passionate about doing something about drunk driving. I am one of those people that got a call at 10 at night, and every half-hour somebody else does and one of their loved ones was murdered by someone that got behind the wheel of a vehicle drunk. This is not some mysterious illness for which we don't know a cure. We know what causes it and we know what cures it. And I'm not comfortable just saying well, let's consolidate all this and just hope.

We have made some progress, Dr. Runge, no question about that. Let me just say that part of that progress is legislative, part of it is citizen progress, Mothers Against Drunk Driving to name one, and others. But we are not nearly done, we're just not nearly done. Perhaps during this hearing, about 4 phone calls will go out to Americans telling them that their loved one has been killed by a drunk driver. So we have a lot to do, and I am not comfortable leaving it up to the judgment of someone else about whether they want to build some projects or whether they want to try to alter the behavior of those who are repeat drunk driving offenders or

alter the behavior of those who want to operate vehicles with alcohol in the vehicle.

So, we'll work through this. I just want to say, I'm a little disappointed by the consolidation and flexibility, I don't support that, and we need to work through it here in the Congress. You and I have had a chance to visit briefly, and I think that you have the capability to do some awfully good work down there. I think Mr. Guerrero has done some good work for us to give us a road map here on where we want to go with respect to accountability. Thank you very much for your testimony, both of you.

Dr. RUNGE. Thank you.

Senator SMITH. Thank you, gentlemen, for your testimony.

I'm informed we will have a vote coming soon, so we will dismiss our first panel, bring our second panel up. We have 5 witnesses and we ask that their presentations be as succinct as they can be so we can get them in before this hearing of necessity must conclude.

Our first witness is Ms. Jackie Gillan, Vice President, Advocates for Highway and Auto Safety; Ms. Kathryn Swanson, Chairman, Governors Highway Safety Association and Director of the Minnesota Office of Traffic Safety; Ms. Josephine Cooper, President and CEO of the Alliance for Automobile Manufacturers is not feeling well today, so is being represented by Mr. Robert Strassberger, who is the Vice President for Vehicle Safety and Harmonization for the Alliance and will testify in her place. We also have Ms. Wendy Hamilton, President, Mothers Against Drunk Driving; and Mr. Rick Berman, Legislative Counsel, American Beverage Licensees and American Beverage Institute.

We will start with Ms. Gillan.

**STATEMENT OF JACQUELINE S. GILLAN, VICE PRESIDENT,
ADVOCATES FOR HIGHWAY AND AUTO SAFETY**

Ms. GILLAN. Thank you very much, Senator, good afternoon. Despite the grim news on highway fatalities in 2002, the good news is that effective proven strategies and solutions are already on the shelf and waiting to be used in highway and auto safety.

This year the Senate Commerce Committee has the unique opportunity in the reauthorization of NHTSA's motor vehicle and traffic safety programs to establish a safety agenda that will bring down highway deaths and injuries for the next 6 years. This afternoon I would like to outline a plan of action that involves a two-prong strategy involving better vehicle design and improved driver behavior.

Our legislative proposals fall into three categories: the need to provide sufficient funding resources for NHTSA; the need to establish a safety regulatory agenda with deadlines for agency action; and the need to encourage uniform adoption and enforcement of lifesaving traffic laws. One of the most critical weapons in the battle to reduce highway deaths and injuries is adequate financial resources. As you correctly stated, nearly 95 percent of all transportation-related fatalities are the result of motor vehicle crashes, but NHTSA's budget is less than 1 percent of the entire DOT budget.

Twice in the past 3 years this Committee has had to pass legislation increasing NHTSA's authorization levels to correct funding

shortfalls. We ask the Committee to significantly increase funding for the agency program in the authorization bill. This investment will definitely pay off.

Last February the Committee held ground-breaking hearings on the safety of sport utility vehicles to look at issues related to the safety of SUV occupants and the safety of occupants of passenger vehicles involved in a crash with an SUV. Advocates urges this Committee to establish a motor vehicle safety regulatory agenda with deadlines for NHTSA action similar to what you did in the Tread Act for Tire Safety.

The NHTSA authorization bill needs to address the issue of rollovers. While rollover crashes only represent 3 percent of all collisions, they account for nearly a third of all occupant fatalities. Advocates recommends that NHTSA be directed to issue a rule on rollover stability standards to prevent deaths and injuries, as well as a crash worthiness standard to protect the occupants of rollover crashes.

Also, vehicle aggressivity and incompatibility are needlessly contributing to motor vehicle deaths and injuries. Light trucks and vans, including SUVs, can cause great harm to smaller passenger vehicles in a crash, particularly a side impact crash. Legislation should direct NHTSA to improve the compatibility between larger and smaller passenger vehicles, reduce the aggressivity of larger vehicles, and enhance the front and side impact protection of small and mid-size passenger vehicles.

Last year more than 16 million new cars were sold. Yet, consumer information on the safety of cars is fragmented and incomplete. A Lou Harris public opinion poll showed that 84 percent of the public supports having a safety rating on a window sticker of new cars at the point of sale. In 1996, the National Academy of Sciences made a similar recommendation and now it's time for NHTSA to move forward on this recommendation.

Let me briefly now turn to improvements that have already been discussed this morning and the need to make improvements in the area of traffic safety programs. Attached to my testimony are maps and charts showing the status of traffic safety laws in states across the country. Unfortunately, most states lack some of these basic laws. This is in contrast to aviation safety, where every person flying on every airplane in every state is subject to the same uniform laws and regulations. This uniformity has been a foundation for achieving an exemplary safety record for aviation travel throughout the United States and should be pursued in the area of highway safety, where thousands are killed and millions more are injured every year.

At present only 18 states and the District of Columbia have a primary enforcement safety belt law. Adoption of these laws absolutely requires and results in higher use rates. Advocates supports the financial incentive that the administration proposes but we would also like to see a sanction imposed for states that fail to act.

Similarly, the DOT proposal to encourage State adoption of primary safety belt laws is very weak and will result in nothing more than accounting gimmicks as the states who are penalized for not having a primary safety belt law or a 90 percent use rate will be able to move funds from the highway safety improvement program

and construction program into their 402 traffic safety program. Then there is an escape hatch where they can move those traffic safety funds back into the construction program. And this is a measure and countermeasure that is not going to result in all 50 states having a primary safety belt law.

While Advocates certainly supports the idea of State flex, sometimes you just have to flex your muscle to get the states to act, and that's what Congress has done for the 21 drinking age, the teen drinking laws and the .08 BAC law.

I would just like to mention briefly two issues related to child safety which we would like the Committee to address in their NHTSA authorization bill. Last year this Committee took the lead in moving legislation to improve booster seat safety. Unfortunately, a provision concerning incentive grant programs to states to enact booster seat laws was dropped. We would like to encourage the Committee to revisit that issue and to include a targeted incentive grant program to encourage State booster seat laws, as well as a requirement for built-in child restraints to increase their use.

I also would like to submit testimony from one of my safety partners, Kids in Cars. They have been concerned about the serious safety issue involving children who are left unattended in vehicles or killed by vehicles backing up. They have collected data showing that deaths and injuries occur to hundreds of children every year because of this, and it's not an issue that's on NHTSA's radar screen and we certainly think it's one they should deal with.

The recommendations which we include in our more detailed testimony which has been submitted is an action plan that Advocates supports because it will result in common sense cost effective laws and will result in saving lives and dollars.

Advocates' vision for the future is to be invited back by this Committee to testify in 2009, I hope I'm not the witness, but if I am, I would like to report that the United States has experienced the lowest traffic fatalities in a decade, that fatal rollover crashes are going down, and that the war on drunk driving is being won and motor vehicle crashes are no longer the leading cause of death and injury for Americans young and old.

And yes, we do have the solutions, and it's really a matter of the political will to put those solutions in place. Thank you.

[The prepared statement of Ms. Gillan follows:]

PREPARED STATEMENT OF JACQUELINE S. GILLAN, VICE PRESIDENT, ADVOCATES FOR HIGHWAY AND AUTO SAFETY

Good afternoon. My name is Jacqueline Gillan and I am Vice President of Advocates for Highway and Auto Safety (Advocates), a coalition of consumer, health, safety, law enforcement and insurance companies and organizations working together to support the adoption of laws and programs to reduce deaths and injuries on our highways. Advocates is unique. We focus our efforts on all areas affecting highway and auto safety—the roadway, the vehicle and the driver. Founded in 1989, Advocates has a long history of working closely with the Senate Committee on Commerce, Science and Transportation in the development of Federal legislative policies to advance safety. I am pleased to testify this morning on the importance of reauthorizing the motor vehicle safety programs and the traffic safety programs of the National Highway Traffic Safety Administration (NHTSA).

Every day millions of American families leave their homes to travel by car to work, school, medical appointments, soccer practice, shopping malls and cultural activities. Although our Nation's highway system has created mobility opportunities that are the envy of the world, it has also resulted in a morbidity and mortality

toll that is not. The U.S. Department of Transportation (DOT) recently released the preliminary traffic fatalities for the year 2002 and the news was grim.

Overall, there were 42,850 deaths last year compared to 42,116 in 2001, an increase of 734 deaths. This is the highest number of motor vehicle fatalities in over a decade. The data show that motor vehicle fatalities rose in nearly every category of crashes. Alcohol-related fatalities dramatically increased by 522 deaths to a total of 17,970 fatalities; a record 10,626 deaths occurred in rollover crashes, nearly a 5 percent increase from last year; more teen drivers were killed for a total of 8,996 deaths; deaths for children 8 to 15 years old increased significantly to 1,604 lives lost; for the fifth consecutive year motorcycle deaths climbed to 3,276; and lastly, a majority of those killed in motor vehicle crashes were not wearing a seatbelt. In addition to the emotional toll, these deaths are associated with a large financial toll to society. According to DOT, the cost of motor vehicle crashes exceeds \$230 billion annually.

Although the number of deaths slightly decreased in certain areas, such as pedestrians, bicyclists, crashes involving large trucks, and children under seven years of age, these marginal improvements barely offset what would have been a significantly larger increase in total traffic fatalities in 2002. The highway safety community takes no solace in these victories when the predominant trend has been a general increase in total highway deaths, reversal of improvements in alcohol-related fatalities, and unabated growth in the number of deaths in rollover crashes.

The six-year surface transportation reauthorization legislation submitted by DOT recommends more than \$247 billion in spending. Without a major reversal in the growing number of highway fatalities and injuries in the next six years, almost 250,000 people will die and 18 million more will be injured at a societal cost of more than \$1.38 trillion. The number of deaths is roughly equivalent to half the population of Portland, Oregon. The number of individuals injured in motor vehicle crashes is equal to the combined population of the states of North Dakota, Kansas, Montana, New Jersey and Washington. A mere 20 percent reduction in fatalities and injuries over the next six years would more than pay for the entire cost of the Administration's legislation.

This afternoon I will discuss the urgent need for the 108th Congress to enact a NHTSA reauthorization bill of the agency's motor vehicle and traffic safety programs that reverses this deadly trend and seriously addresses the unnecessary and preventable carnage on our highways. The good news is that effective, proven solutions and strategies already are on the shelf and ready to be used. Many states and communities already are employing these ideas and programs and realizing important reductions in highway deaths and injuries. Furthermore, technological solutions to improve the crashworthiness of motor vehicles are available and in use for some makes and models.

The map and charts attached to my testimony show a patchwork quilt of state laws. As a result, in 2003 most American families are not protected by laws that will ensure their safety when traveling on our Nation's roads and highways. This is in contrast to aviation safety where every person, flying on every airplane, in every state is subject to the same uniform safety laws and regulations. This uniformity has been the foundation for achieving an exemplary safety record of aviation travel throughout the United States. Unfortunately, this is not the case for motor vehicle travel where nearly every state lacks some basic traffic safety law and thousands of Americans are killed and millions more injured every year.

While we are well on our way to having a uniform .08 percent BAC (blood alcohol concentration) *per se* law in every state, most states still lack basic highway safety laws.

- 32 states do not have a primary enforcement safety belt law.
- 11 states need to pass a .08 percent BAC *per se* law.
- 17 states do not have an adequate repeat offender law for impaired driving.
- 14 states do not prohibit open alcohol containers while driving.
- 17 states have serious gaps in their child restraint laws.
- 33 states do not require children ages 4 to 8 years old to use a booster seat.
- 30 states do not require all motorcycle riders to wear a helmet.
- Most states do not protect new teen drivers with an optimal graduated driver license law.

Furthermore, some of the most important regulatory actions undertaken by NHTSA in the past thirteen years have been the result of congressional direction, primarily at the initiation of the Senate Commerce, Science and Transportation Committee. The most recent example was enactment of the Transportation Recall

Enhancement, Accountability, and Documentation (TREAD) Act (P.L. 106–414, Nov. 1, 2000) which directed the agency to undertake numerous rulemakings on a variety of issues related to tire and child passenger safety and provided the resources to do the job. This is a model Advocates strongly supports for enactment of the NHTSA reauthorization legislation in the 108th Congress.

In summary, Advocates urges the Senate Subcommittee on Competition, Foreign Commerce and Infrastructure to enact NHTSA reauthorization legislation that:

- *Provides sufficient funding resources for the agency to fulfill its mission,*
- *Establishes a safety regulatory agenda with deadlines for agency action, and*
- *Results in state adoption and enforcement of uniform lifesaving traffic safety laws.*

NHTSA's Motor Vehicle Safety and Traffic Safety Programs Suffer From Insufficient Funds and This Is Jeopardizing Efforts to Bring Down Deaths and Injuries

One of the most critical weapons in the battle to reduce deaths and injuries is adequate financial resources to support programs and initiatives to advance safety. At present, nearly 95 percent of all transportation-related fatalities are the result of motor vehicle crashes but NHTSA's budget is less than one percent of the entire DOT budget. Motor vehicle safety regulatory actions languish, state enforcement of impaired driving laws is inadequate, and NHTSA data collection is hampered because of insufficient resources to address these problems. Since the last NHTSA motor vehicle program reauthorization legislation was enacted, this Committee has needed to act twice in the past three years to correct severe funding shortfalls. When serious problems resulting in deaths and injuries were identified in some passenger vehicle airbags, NHTSA was compelled to issue an advanced airbag rule to upgrade Federal Motor Vehicle Safety Standard (FMVSS) No. 208 to require new tests and advanced technology. Additional funds were needed by the agency to complete the necessary research and data analysis. Furthermore, during congressional hearings and media attention on the deadly rollover occurrence of Ford Explorers equipped with Firestone tires, it was revealed that neither the Federal tire standard nor the roof crush standard had been updated since the early 1970s. Also, warning signs of the potential problem were missed because of inadequate data collection and analysis. Again, legislation was enacted providing additional funds to address the problem. In both cases, insufficient program funding and staff resources contributed to the agency's missteps in identifying and acting upon the problems.

The current authorization funding level for NHTSA's motor vehicle safety and consumer information programs is only \$107.9 million, less than the economic cost of 110 highway deaths, which represents a single day of fatalities on our highways. Since 1980, the agency has been playing a game of catch-up. Today, funding levels for motor vehicle safety and traffic safety programs are not much higher than 1980 funding levels in current dollars.

For over twenty years, NHTSA has been underfunded and its mission compromised because of a lack of adequate resources to combat the rising tide of increased highway deaths and injuries. The legislative proposal released last week by DOT will continue to deny NHTSA the resources required to issue overdue motor vehicle safety regulations, upgrade vehicle safety standards that date back to the early 1970s, improve consumer information, attack impaired driving, enforce existing traffic safety laws, compel states to enact primary safety belt laws, and ultimately, lower the toll of highway deaths and injuries.

Recommended Actions

Increase funding authorization for NHTSA's motor vehicle safety and consumer information programs.

Increase traffic safety grant funding with a stronger emphasis on enforcement of laws to combat drunk driving and encourage seat belt use.

NHTSA Should Issue Rollover Prevention and Crashworthiness Standards to Stop the Growing Number of Annual Highway Fatalities and Injuries Due to Vehicle Rollovers

Last February, the Senate Commerce, Science and Transportation Committee held groundbreaking hearings on the safety of sport utility vehicles (SUVs). The purpose of the hearing was to examine issues related to both the safety of SUV occupants as well as the safety of occupants of passenger vehicles involved in a crash with an SUV.

Rollover crashes result in a tragedy of massive proportions, with more than 10,000 deaths and hundreds of thousands of crippling injuries to Americans each

year. Rollover crashes represent only 3 percent of all collisions but account for 32 percent of all occupant fatalities.

In the last few years, light truck and van sales have amounted to slightly more than 50 percent of the new passenger vehicle market. This surprising market share for new SUVs, pickup trucks, and vans has been propelled mainly by the explosive growth in the purchase of new SUVs. Although cars still predominate in the passenger vehicle fleet—nearly two-thirds of registered vehicles—this proportion consists of an older car fleet that is increasingly being replaced by new light truck purchases, particularly of SUVs. The soaring popularity of SUVs since the start of the 1990s has resulted in more than doubling their numbers on the road during this period, accompanied by a doubling of fatal rollover crashes.

The preliminary results of NHTSA's annual Fatal Analysis Reporting System (FARS) for 2002 show yet another increase in deaths and injuries due to rollover crashes—from 10,130 in 2001 to 10,626 last year—with almost half of them due to an increase in rollover fatal crashes by SUVs and pickup trucks. In fact, our Nation suffered an astounding 10 percent increase in SUV rollover deaths alone in just one year. When you add pickup trucks into the equation, seventy-eight (78) percent of the increase in passenger vehicle rollover deaths from 2001 to 2002 was due just to the increased fatal rollover crashes of SUVs and pickup trucks.

Six of every 10 deaths in SUVs last year occurred in rollover crashes. No other passenger vehicle has the majority of its deaths take place in rollovers. By contrast, the great majority of deaths in passenger cars—more than 75 percent—occur in other crash modes. It is very clear that we are needlessly taking lives in the U.S. because of the tendency of SUVs to roll over in both single-and multi-vehicle crashes.

At a press event in 1994, DOT announced several safety initiatives to address rollover crashes in lieu of issuing a rollover stability standard. Nearly ten years later, DOT has made little any progress in completing any of the major actions. NHTSA knows what needs to be done to protect our citizens from the lethal outcomes of rollover crashes. The agency failed to act when the need became clear years ago to stop the annual rise in deaths and injuries from rollovers. As the proportion of new vehicle sales strongly shifted each year towards light trucks and vans and away from passenger cars, NHTSA had an opportunity to act decisively to establish a vehicle stability standard to reduce the tendency of most SUVs and pickups to roll over, but the agency squandered that opportunity. It also had an opportunity at that time to fulfill its promises of improving occupant safety when, predictably, vehicles roll over. That could have been accomplished by improving the resistance of roofs to being smashed and mangled in rollovers, requiring upper and lower interior air bags instead of just padding to protect occupants, changing the design of door locks and latches to prevent ejection, installing anti-ejection window glazing, and increasing the effectiveness of seat belts in rollovers by properly restraining passengers with such well-known safety features as belt pretensioners.

Yet, here we are almost 10 years after NHTSA terminated rulemaking to set a vehicle stability standard with the American public placed at increased risk of death and injury every year because of the growing numbers and percentage of SUVs and pickups in the traffic stream. Instead, NHTSA has promised a consumer information regulation to reveal the on-road rollover tendencies of SUVs and pickups. However, that promise is highly qualified. Although the agency issued a rollover rating system based on static stability factor (SSF) and is developing a rating system based on a dynamic test procedure, the agency has warned that it will be years before enough vehicles are tested and enough data from the field are collected to be able to determine if the rollover ratings from dynamic testing are accurate indications of rollover tendencies. So, while NHTSA collects several years of data to determine whether its testing regime is even tenable, the American consumer will continue to buy vehicles that place individuals and families at increased risk of death and debilitating injuries.

Recommended Actions

Require NHTSA to issue a final rule on a rollover stability standard to prevent deaths and injuries.

Require NHTSA to issue a final rule on a rollover crashworthiness standard that includes improvements in roof strength, advanced upper interior head impact protection, ejection prevention measures that includes a combination of side air bags for upper and lower impact protection and window glazing, and integrated seating systems using pretensioners and load limiters in safety belts.

Improve the Safety of 15-Passenger Vans

Perhaps one of the clearest indications that NHTSA needs to control basic vehicle designs that consistently produce high rates of rollover crashes are the horrific rollover crashes during the past few years among 15-passenger vans. A study released by NHTSA in late 2002 showed how, in 7 states, 15-passenger vans as a class, regardless of the number of passengers on board, are substantially less safe than all vans taken together. The data from FARS for the year 2000 showed that 17.6 percent of van crashes involved rollovers, not significantly greater than passenger cars at 15.3 percent. However, single vehicle rollover crashes of 15-passenger vans happen more frequently than with any other van when there are 5 occupants or more being transported. When these big vans have 5 to 9 passengers aboard, almost 21 percent of their single-vehicle crashes are rollovers. When the passenger load is between 10 and the maximum seating capacity of 15 occupants, single-vehicle rollovers are 29 percent of all van crashes. Even more dramatic, when 15-passenger vans are overloaded, *i.e.*, more than 15 passengers on board, 70 percent of the single-vehicle crashes for these extra-heavy vans were rollovers. These findings are similar to those of the National Transportation Safety Board (NTSB), released in October 2002, that found 15-passenger vans with 10 to 15 passengers onboard had a rollover rate about three times greater than that of vans seating 5 or fewer passengers. In addition, NTSB found that 15-passenger vans carrying 10 to 15 passengers rolled over in 96 of the 113 single-vehicle crashes investigated, or in 85 percent of those crashes.

Unfortunately, NHTSA has only issued advisories about more careful operation of these vans and the use of better-trained drivers, and has even stated that there is nothing inherently defective about their design. These disclaimers about the intrinsically poor stability and safety of 15-passenger vans are unsettling when they are viewed in relation to two safety recommendations issued by the NTSB on November 1, 2002 to NHTSA and to two vehicle manufacturers, Ford Motor Company and General Motors Corporation. The NTSB recommendations asked NHTSA to include 15-passenger vans in the agency's rollover testing program and to cooperate with vehicle manufacturers to explore and test technologies, including electronic stability systems, that will help drivers maintain stable control over these vehicles.

S. 717, the Passenger Van Safety Act of 2003, sponsored by Sen. Olympia Snowe (R-ME) seizes the initiative to improve the safety of 15-passenger vans by putting NTSB's recommendations into action. Advocates also supports fundamental changes in 15-passenger van design that will make them safer vehicles beyond the addition of stability-enhancing technologies and rollover test results showing their tendency to roll over. Unfortunately, 15-passenger vans, as well as larger passenger vehicles, especially medium and large SUVs and vans, along with small buses, are often exempted from key NHTSA safety regulations for crashworthiness. For example, because of the distance of seating positions in 15-passenger vans from side doors and the fact that the vans weigh more than 6,000 pounds, the lower interior side impact protection standard, FMVSS No. 214, does not apply to these big vans. This major safety standard also does not apply to any vehicles exceeding 6,000 pounds, or even to certain vehicles under this weight limit, such as walk-in vans, motor homes, ambulances, and vehicles with removable doors. Bigger passenger vehicles, then, as well as certain kinds of smaller passenger vehicles, are exempt from the minimal protection required by FMVSS No. 214.

Similarly, the current roof crush standard—a standard that is weak and ineffective in preventing both general roof collapse and local intrusion in rollover crashes—exempts all passenger vehicles above 6,000 pounds gross vehicle weight rating. This means that 15-passenger vans, other large vans, small buses, and well-known makes and models of SUVs and pickup trucks, do not have to meet even the inadequate test compliance requirements of FMVSS No. 216. Neither of the exemptions for larger, heavier passenger vehicles weighing more than 6,000 pounds gross vehicle weight rating is based on any compelling data that these vehicles are somehow safe for their occupants without adherence to even these two weak standards. In fact, some of the vehicles with the worst rollover crash rates and roof failures are among the vehicles exempted from these two major standards. To complicate the issue further, NHTSA requires all passenger vehicles less than 10,000 pounds gross vehicle weight rating to comply with the head injury protection requirements for upper interior impacts, including side impacts, but does not require similar compliance for vehicles between 6,000 and 10,000 pounds gross vehicle weight rating for lower interior torso protection under Standard No. 214.

Recommended Actions

Congress should enact S. 717 as well as direct NHTSA to conduct rulemaking and issue final regulations to extend the protection of all of the occupant protection

standards, even those which need to be strengthened, to all passenger vehicles regardless of weight or size.

Vehicle Aggressivity and Incompatibility Are Needlessly Contributing to Motor Vehicle Deaths and Injuries

The unparalleled growth in the sale and use of SUVs and other light trucks for personal transportation over the last 15 years has produced another major impediment to safety on our roads and highways. Large SUVs, pickup trucks, and full-size vans are disproportionately responsible for increasing the number of deaths and injuries when they collide with smaller passenger vehicles, including impacts even with small SUVs and mini-vans. This is known in vehicle safety engineering as “crash incompatibility”. This means that when there are two unequal collision partners, as the engineers refer to the vehicles that strike each other, the bigger, heavier, taller vehicle almost always inflicts more severe damage on the smaller, lighter, shorter vehicle.

According to NHTSA, the number of passenger car occupants dying in two-vehicle crashes with light trucks or vans increased in 2002 compared to 2001, while the number of fatalities in the light trucks or vans actually decreased. These mismatch crashes are especially lethal when two factors are present: first, the heavier, bigger vehicle is the “bullet” or striking vehicle and the lighter, smaller vehicle is the “target” or struck vehicle, and, second, the bigger vehicle hits the smaller vehicle in the side. In these circumstances the consequences are fairly predictable. The bigger, heavier, higher vehicle rides over the lower door sills of the side of the small vehicle in a side impact, or rides above its low crash management features in a frontal collision. As a result, the smaller vehicle’s occupant compartment suffers enormous deformation and intrusion from the impact with the bigger vehicle.

Recent studies by both American and Australian researchers have underscored the incredibly high level of harm that large light trucks and vans (LTVs), especially SUVs, inflicted on smaller passenger vehicles, particularly small cars, because of the large differences in weight, size, height, and stiffness. According to NHTSA, for cars struck in the near side by pickup trucks, there are 26 fatalities among passenger car drivers for each fatality among pickup truck drivers. For SUVs the ratio is 16 to 1.

To date, NHTSA has done essentially nothing to reduce this tremendous “harm difference” between the biggest, heaviest members of the passenger vehicle fleet and the smaller vehicles. The agency needs to reduce the aggressivity of larger vehicles and simultaneously to improve the protection of occupants in the smaller, struck vehicles by undertaking research and regulatory actions on an accelerated calendar. Although NHTSA indicates this is a safety priority area, the agency’s FY ’04 budget unfortunately does not include any request for increased funding for this initiative.

Advocates and others in the highway safety community are concerned that rhetoric does not match reality and the problem will continue to grow as LTVs become a larger percentage of the vehicle fleet. There are several actions the agency should be taking in order to address this growing problem. For example, in the area of research, NHTSA’s National Center for Statistics and Analysis currently collects detailed crash information for a sample of moderate to high severity crashes. However, the data points collected do not adequately document and illuminate the most critical aspects of passenger vehicle to passenger vehicle crashes, especially those involving mismatched pairs. Similar change should apply to all agency data collection from real world crashes. Data collection would be further enriched if the number of cases investigated were increased to improve the ability of the agency to generalize about the reasons for vehicle responses and occupant injuries in crashes involving incompatible passenger vehicles.

NHTSA also can improve the compatibility between larger and smaller makes and models of the passenger fleet by reducing the aggressivity of larger vehicles, especially light trucks and vans. Lowering the front end height difference of larger, heavier vehicles to match the front ends and sides of smaller vehicles will prevent larger vehicles from riding over the front ends and side door sills of smaller passenger vehicles. Furthermore, simultaneously reducing the crash stiffness of larger pickup trucks, SUVs, and big vans would ensure that crash forces are more evenly distributed between larger and smaller vehicles in both front and side in multi-vehicle collisions, which would improve safety.

Side impacts in passenger cars alone resulted in about 5,400 deaths in each of the last few years, more than 30 percent of passenger car multiple-vehicle collision fatalities. Currently, the motor vehicle safety standards for upper interior side impact (FMVSS No. 201) and lower side impact (FMVSS No. 214) are too weak and need to be upgraded. When NHTSA adopted FMVSS No. 214 back in the early 1990s, it should be noted that the majority of the passenger vehicle fleet already

met its compliance requirements, even without any additional countermeasures. The standard was indexed to meet the existing protective capabilities of the vehicle fleet. Additional protection could be achieved by enhancing the side impact protection of occupants by requiring dynamic impact safety systems, such as air bags, for both upper and lower portions of the vehicle interior.

Lastly, consumers lack essential, basic information about how cars perform in side impact crashes. The NHTSA New Car Assessment Program (NCAP) conducts side impact crash tests on new cars but the tests use a barrier similar to a mid-size car to crash into small passenger vehicles. As a result, the test scores are misleading because they fail to inform consumers about how a vehicle performs in the real world. With the changing mix in the vehicle population and growing number of LTVs, especially SUVs, if you drive a car it is growing ever more likely you will be hit in the side by a vehicle larger than your own.

Recommended Actions

Require NHTSA to improve vehicle compatibility between larger and smaller makes and models of the passenger vehicle fleet by reducing the aggressivity of larger vehicles, especially light trucks and vans.

Enhance the front and side impact protection of occupants of small and mid-sized passenger vehicles.

Increase and improve data collection on the most critical aspects of passenger vehicle to passenger vehicle crashes, especially those involving mismatched collision partners.

Provide consumers with better information about how passenger cars perform in side impact crashes with vehicles that are not similar in size.

Consumer Information On Safety Is Fragmented and Incomplete

Last year, more than 16.8 million new cars were sold in the United States. However, consumers entering dealer showrooms were hampered in making educated purchasing decision because of a lack of comprehensive, comparative information on the safety performance of different makes and models of automobiles. Consumer information on the comparative safety of vehicles and vehicle equipment remains woefully inadequate. Even though buying a car is the second most expensive consumer purchase, next to the purchase of a home, the majority of consumers end up at the mercy of the sales pitch and without recourse to objective information. While energy conservation information is required on home appliances and other household items and even on passenger vehicles, critical safety information is not required on vehicles at the point of sale. The fact is that consumers get more information about the health and safety value of a \$3 box of cereal than they do about vehicles that cost \$30,000 and more in the dealer showroom.

Providing vehicle buyers with important safety information at the point of sale is not a new idea. In 1994, the Secretary of Transportation suggested just such a label but it was never implemented. In 1996, the National Academy of Sciences issued a report that called for providing consumers with more and easier to use safety information, including a vehicle safety label with a summary safety rating. (*Shopping for Safety*, Transportation Research Board Special Report No. 248, National Academy of Sciences (1996).) Throughout the 1990s, in surveys conducted for Advocates by pollster Lou Harris, the public repeatedly expressed a strong desire for objective safety information. In a 2001 public opinion poll, 84 percent of the public supported placing a government safety rating on a window sticker on every new vehicle at the point of sale.

There is no doubt that consumers continue to clamor for helpful information about vehicle safety. A safety label on the vehicle will ensure that every purchaser will at least be aware of the same basic, objective safety information for every vehicle they are interested in buying. Additionally, NHTSA should release to the public all types of vehicle safety information including early warning information that Congress requires the agency to collect under the TREAD Act. In this way, consumers will be knowledgeable about the real world performance of vehicles they purchase and drive.

Recommended Action

Congress should instruct NHTSA to require that all new vehicles display a safety label at the point of sale that informs prospective purchasers about the safety of the vehicle with respect to major vehicle safety standards as well as specific safety features and equipment, both mandated and optional, that are in the vehicle.

Leave No State Behind: Congress Should Encourage Uniform State Adoption of Life-Saving Highway Safety Laws and Provide States With Sufficient Funds to Enforce These Laws

Improving highway safety requires a two-pronged strategy involving better vehicle design and changing driver behavior. Successful changes in driver behavior have been accomplished only through the enactment of laws, enforcement of those laws and education about the laws. Unfortunately, too few states have adopted some of the most effective traffic safety laws that contribute to saving lives and preventing injuries on our roads and highways. The recently released 2002 traffic fatality statistics underscore the need to make an investment in safety and ensure the effectiveness of programs if we are to reverse the rising tide of highway fatalities and injuries.

Historically, funding for highway and traffic safety needs through the Section 402 program and other incentive grant initiatives has provided needed resources to states to advance safety. The level of funding and how those funds are used will be critical elements in determining the course of highway safety in the next six years.

Advocates is disappointed in DOT's proposal submitted to Congress last week outlining the Administration's plans for funding state traffic safety activities as well as other measures to address growing highway fatalities.

The funding level for DOT's Section 402 traffic safety program is inadequate to meet the challenges we face. When one adds up all of the various categories the Administration's proposal provides for traditional highway safety programs, it equals about \$539 million. This represents only a marginal funding increase of \$20 million for FY 2004 over the FY 2003 total of \$519 million. It amounts to less than a 4 percent increase in funding. Furthermore, the Administration's proposal includes a vigorous new program for data collection and analysis. While we support the need for such a program, if you subtract the proposed \$50 million dollars for the state information systems grant program, the remaining authorization for highway safety grants in FY 2004 is actually \$30 million less than was authorized under the Transportation Equity Act for the 21st Century for FY 2003.

These programs, however, are only effective if they promote specific safety goals and improvements. Despite the marginal increase in funding proposed by the Administration over the coming six years, the traffic death toll will not decline until nearly all occupants buckle up and impaired driving is abated. The Administration's proposal includes a meager \$50 million for state impaired driving programs. This amount does not even equal the financial cost of 50 drunk driving deaths—the number that occurs daily on our highways—out of a national total in 2002 of 17,970 alcohol-related deaths.

Safety, medical, health, and law enforcement groups and DOT all agree that seat belt use is critical to safety in most crash modes. Last year, statistics show that the majority of fatally injured victims were not wearing their seat belts. It is incumbent on safety advocates, the Administration, and Congress, to ensure that everyone gets the message, "buckle up for safety." We can do this by requiring all states to adopt and enforce primary enforcement seat belt use laws. Forty-nine states and the District of Columbia have seat belt laws on the books. Of these, only 18 states and the District have primary enforcement seat belt use laws. Switching from a seat belt use law that permits only secondary enforcement, when another infraction has been committed, to a primary enforcement law entails no additional costs or burdens and is not an unfunded (or unfounded) mandate to the states. We have tried incentive grants for years, and we know that redirection programs usually result in nothing more than a funding shell game. For these reasons, Advocates supports a mandatory sanction of Federal-aid highway funds to promote seat belt use and safety. Such sanctions have been effective when used judiciously and to promote important safety goals, such as state adoption of the minimum drinking age law, the zero alcohol tolerance law, and .08 percent BAC laws.

We realize that the Administration includes a primary enforcement seat belt law funding redirection provision in the proposed new Highway Safety Improvement Program (HSIP). That proposal will not be effective in moving states to adopt primary enforcement laws for a number of reasons. First, the redirection of funds does not occur if a state either adopts a primary enforcement seat belt law or achieves a seat belt use rate of 90 percent or more. By permitting the 90 percent belt use alternative, the proposal gives reluctant states the hope that both redirection of funds and primary enforcement can be avoided. Even though no state has ever achieved 90 percent belt use without primary enforcement, this option may well lead states to delay or never adopt a primary enforcement seat belt law. Second, the redirection affects only 10 percent of the total \$1 billion Highway Safety Improvement Program. For many states, their share will probably not be sufficient penalty to en-

tice them to adopt primary enforcement. Third, the redirection would require that the redirected 10 percent of the state's Highway Safety Improvement Program funds be expended on Section 402 programs. This may pose problems for the appropriate expenditure of safety funds when large amounts of funding are funneled into the program at the last minute, without proper planning and preparation. Moreover, funds redirected from the Highway Safety Improvement Program might be in addition to funds required to be transferred to the state's Section 402 program if the state has not complied with the requirements of Section 154 (*Open container requirements*) and Section 164 (*Minimum penalties for repeat offenders*).

The final problem with the proposed redirection is the funding shell game. Under the Administration's proposal, while 10 percent of the Highway Safety Improvement Program may be redirected to the Section 402 program, half or more of the funds received by a state under the newly proposed Performance Grants could be transferred out of the Section 402 program and back into the Highway Safety Improvement Program. Thus, the proposed redirection ends up as a meaningless paper chase and accounting gimmick that will not serve the goals of improving safety and increasing the number of people who buckle up.

In addition, for some years now, the Section 402 program has been flying under the radar of good principles of accountability and responsibility. Although we support increasing funds available to states for safety, we are concerned that the funds already in the Section 402 program are not being spent in the most effective manner. Over the years, the program has devolved into a self-reporting system in which states set their own goals and determine whether those goals have been met. In essence, states make up their own test, grade their own papers, and write their own report cards.

According to a General Accounting Office (GAO) report issued in April, 2003 (GAO-03-474) in response to a request by Sen. Byron L. Dorgan (D-ND), NHTSA has the ability to conduct management reviews to help improve the financial and operational management of state programs. However, GAO found that there are no written guidelines on when to perform management reviews and those reviews are not being performed consistently. For example, the GAO found that in the six NHTSA regions visited, there were goals of conducting management reviews every two years but there was no set schedule and they were conducted only when requested by a state.

Furthermore, when a state program is struggling, NHTSA has the ability to work with a state to develop improvement plans. Again, GAO found that NHTSA has made limited use of improvement plans to help states address highway safety program deficiencies. If Federal dollars for traffic safety programs are increased but there is no increase in accountability and oversight, the American public will be victimized twice—taxpayer dollars will be wasted and highway safety will be jeopardized.

Recommended Actions

Enact the DOT proposed incentive grant program encouraging adoption of primary enforcement safety belt laws but include a sanction after a reasonable time frame to ensure every state passes this lifesaving law by the end of the authorization period.

Prohibit states that are subject to redirecting funds from the Highway Safety Improvement Program (HSIP) into the Section 402 program from shifting Section 402 funds back into the HSIP.

Significantly increase funding for impaired driving programs that have a proven track record.

Ensure accountability by requiring the expenditure of Section 402 traffic safety funds on programs that are successful and increase NHTSA oversight of state program plans.

Enhance The Safety of Children In and Around Cars

Motor vehicle crashes are the leading cause of death and injury to children. In 2002, 2,584 children under the age of 16 were killed in motor vehicle crashes and nearly 300,000 were injured. This means that every single day in the United States, seven children under the age of 16 are killed and 850 are injured in car crashes. While the recently released preliminary FARS data indicates that last year fatalities for children age 7 and younger declined, it was not good news for older children. Fatalities for motor vehicle occupants ages 8 to 15 increased by almost 9 percent.

While some progress has been made in protecting our youth, clearly more needs to be done. The decline in death and injury for children ages 4 through 7 is likely related to efforts throughout the country to enact booster seat laws. The movement started in the state of Washington because a mother, Autumn Skeen, lost her 4 year

old son, Anton, in a car crash. Anton's parents believe his death would have been prevented if he had been riding in a booster seat and not just an adult seat belt. Three years after the Washington State Legislature became the first state to act, 16 states and the District of Columbia have booster seat laws that require children between the ages of 4 and 7 or 8 to use booster seats once they have outgrown toddler child restraints.

The need to protect children who have graduated from infant and toddler safety seats has been documented by research conducted by The Children's Hospital of Philadelphia in partnership with State Farm Insurance Companies. This research has found that half of children between the ages of 3 and 8 are improperly restrained in adult seat belts. This inappropriate restraint results in a three and one-half-fold increase in the risk of significant injury and a four-fold increase in the risk of a serious head injury for those in this age group who are restrained by adult seat belts.

The Senate Commerce, Science and Transportation Committee has been a leader in moving forward a legislative agenda to enhance the safety of child passengers. In the 106th Congress, legislation that originated with the Senate Commerce Committee requiring NHTSA to provide consumer information about the performance of child safety seats, was included in the final version of the TREAD Act. In the last Congress, this Committee again took the lead to push for legislation, named "Anton's Law", requiring NHTSA to issue a Federal safety standard for booster seats and requiring automakers to install, at long last, a shoulder/lap belt in all rear seating positions.

The next step that needs to be taken to protect this age group is to encourage state adoption of booster seat laws. Advocates urges the Committee to take up and modify a proposal that was dropped from last year's congressional enactment of "Anton's Law." This provision was a small grant program to foster state adoption of booster seat laws. Advocates supports a simple but direct incentive grant program that provides financial rewards to states that adopt booster seat laws and allows them to use the grants for enforcement of the new law, education about the new law, and provision of age-appropriate child restraints to families in need.

Another serious safety risk that we urge the Committee to address in the NHTSA reauthorization legislation involves children who are left unattended in vehicles or standing behind vehicles that are placed in reverse, resulting in unnecessary deaths and injuries each year. Non-profit organizations, such as Kids 'N Cars, have documented in private research, the deaths of hundreds of children who were left in cars when outside temperatures soared, who were inadvertently killed when a car or truck backed over them, or who were killed or injured by power windows and sun-roof systems that were not child-proof. It is time that NHTSA lead the effort to collect data on child fatalities and injuries that occur in or immediately outside the car, but not on public roadways. Also, NHTSA needs to analyze the data and take subsequent action to remedy safety inadequacies as they affect children.

Recommended Actions

Include in the NHTSA authorization legislation an incentive grant program to encourage states to adopt booster seat laws. Permit funds to be used for enforcement, education and distribution of child restraints to families in need.

Direct NHTSA to collect and publish data on child fatalities and injuries in parked or inoperable vehicles that result from strangulation and injuries involving automatic windows, and those from backing up collisions.

Require NHTSA to ensure automatic window systems will not kill or injure children.

Require NHTSA to enhance driver rear visibility to prevent backing up crashes into children and adults.

Conclusion

The recommendations for action that Advocates supports are common sense, cost effective and will achieve savings in lives and dollars. The Senate Commerce, Science and Transportation Committee has been a leader in advancing legislative solutions to improve safety in all modes of transportation. Motor vehicle crashes are equivalent to a major airline crash every other day of the year. This public health epidemic does not have to continue unabated. Enactment of proposals to move the agency forward in addressing the unfinished regulatory agenda and providing states with direction and resources will reverse the deadly trend facing us in the coming years. Advocates' vision for the future is testifying before this subcommittee in 2006 to report that the U.S. experienced the lowest traffic fatalities in a decade, the war on drunk driving was being won, fatal rollover crashes were decreasing and motor vehicle crashes were no longer the leading cause of death and injury for Americans,

young and old. We appreciate the invitation to testify today and look forward to working with this committee to craft a bill that will save lives and prevent needless deaths and injuries.



Advocates for Highway and Auto Safety

driving the safety agenda

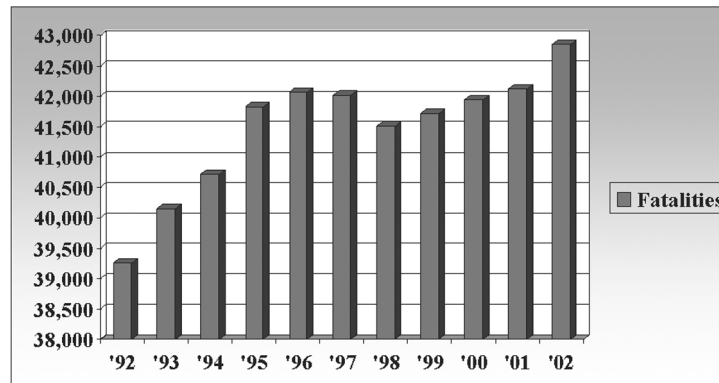
Whether you're driving to work, to school, a medical appointment, soccer practice, or a movie, you and your family deserve to be safe.

In 2002, there were 42,850 deaths on our nation's roads, the highest number in over 10 years. Drunk driving deaths were up as well as fatalities involving rollover crashes, teen drivers, motorcycles, and children ages 8-15. Over half of those killed were not wearing a safety belt.

Advocates' Safety Priorities:

- **Motor Vehicle Safety**
- **Traffic Safety**
- **Motor Carrier Safety**
- **Child Safety**
- **Roadway Safety**

A Decade of Increasing Motor Vehicle Fatalities



Motor Vehicle Safety

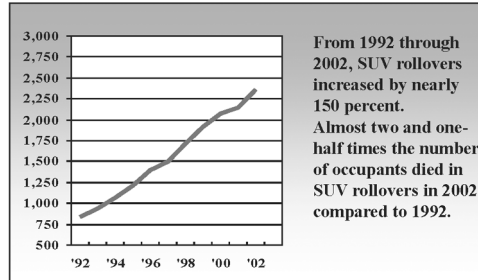
Advocates' Legislative Proposals for the Reauthorization of the National Highway Traffic Safety Administration (NHTSA)

- **Increase NHTSA's Motor Vehicle Safety and Consumer Information Funding Authorization to \$200 Million Annually.**

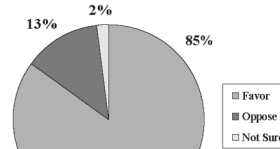
Nearly 95 percent of all transportation fatalities occur as a result of motor vehicle crashes, costing the nation \$230 billion per year. Yet NHTSA receives less than 1 percent of the U.S. Department of Transportation's budget.

- **Make Vehicles More Compatible and Less Aggressive.** Light trucks and vans, especially sport utility vehicles (SUVs), can cause great harm to smaller passenger vehicles in a crash. These groups are badly mismatched in weight, size, and height. Side impact crashes are particularly dangerous. When an SUV hits a passenger car in the side, the passenger car driver is 16 times more likely to die than the SUV driver. This ratio soars to 26 when the striking vehicle is a pickup truck.

SUV Rollover Fatalities 1992-2002



Would you favor the federal government issuing a safety performance standard for all new vehicles on their risk of rolling over?



Louis Harris Poll 2001

- **Issue Common Sense Standards to Prevent Rollover Deaths and Injuries.** In 2002, 10,626 people died in rollover crashes. Rollover crashes represent 3 percent of all collisions, but account for 32 percent of all occupant fatalities. A rollover stability standard is needed, as well as improvements for roof strength, head impact protection, ejection prevention, and integrated seating systems.

- **Help Consumers Make the Right Choice.** Comparative ratings of vehicle crashworthiness would help consumers make safer purchase decisions. The best way to reach consumers is to display safety information on vehicle window stickers at the point of sale.

Traffic Safety



When Congress reauthorizes the Transportation Equity Act for the 21st Century (TEA-21) this year, Advocates' "SAFETEA Coalition" will be ready. Created in 1997, the SAFETEA Coalition has over 100 members at the federal, state, and local level. The SAFETEA Coalition is working to advance a highway safety agenda in the TEA-21 Reauthorization bill.

The SAFETEA Coalition Urges Congress to . . .

- Pass federal legislation requiring all states to have a **primary enforcement safety belt use law** by a specific date or lose a certain percentage of federal highway dollars.
- **Increase funding for federal highway and auto safety programs.**
- Support increased funding of **impaired driving programs** and stronger enforcement.
- Improve highway safety through the use of **innovative technologies** that result in **more effective enforcement of traffic laws.**
- **Oppose increasing truck size and weights.** Maintain the freeze on triple trailer trucks and other longer combination vehicles.

The Highway Safety Deficit:

- 32 states still don't have a primary enforcement safety belt law.
- 11 states still don't have a .08% blood alcohol content (BAC) *per se* law.
- 17 states still don't have a repeat offender law.
- 14 states still don't have an open container law.
- 17 states still have gaps in their child restraint laws.
- 33 states still don't have a booster seat law to protect children ages 4-8.

If all passengers were to wear their safety belts, an additional 9,200 fatalities and 143,000 serious injuries could be prevented each year. NHTSA, 2002

Unless additional states enact and enforce primary enforcement laws, which are the most effective means of increasing seat belt use, we see no credible basis to forecast increases in seatbelt use in excess of the current trend. Office of the U.S. DOT Inspector General, 2002

Between 1985 and 1996, more than 5,500 children were killed in alcohol-related crashes. Approximately 64 percent of those children were passengers in vehicles driven by impaired drivers. Journal of American Medical Association, 2000





COMMON SENSE SOLUTIONS FOR ADVANCING HIGHWAY SAFETY

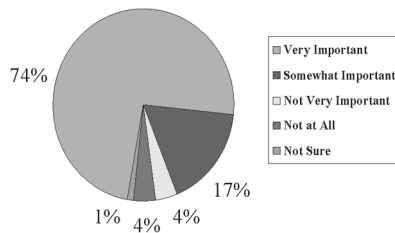
Coalition Members

Advocates for Highway and Auto Safety
 Alaska Injury Prevention Center
 Alaska Safe Kids
 Alliance of American Insurers
 American Academy of Pediatrics
 American Academy of Pediatrics CT Chapter
 American Trauma Society
 Arizona Consumers Council
 Arizona Emergency Nurses CARE
 Association for Safe International Road Travel
 Automotive Safety Program (IN)
 Benedict College/Project Impact (SC)
 Brain Injury Association of America
 Buckle Up 4 Meghan
 Butler County Safe Kids (OH)
 Cedar Rapids Police Department (IA)
 Central Maryland Regional Safe Communities
 Champaign County Safe Kids Coalition (IL)
 Chattanooga - Hamilton County Health Department
 Children and Nutrition Services, Inc. (WY)
 Children's Mercy Hospital (MO)
 City of Madison (WI)
 Coalition for American Trauma Care
 Columbus Health Department (OH)
 Community Alliance for Teen Safety
 Consumer Federation of America
 Consumers for Auto Reliability & Safety
 CRASH – Citizens for Reliable and Safe Highways
 DEDICATEDD – Drive Educated, Drive Informed,
 Commit and Totally End Drunk Driving
 “Do Buckle, Don't Booze” Campaign (ND)
 Downers Grove Police Dept. (IL)
 Driscoll Children's Hospital (TX)
 Eastern Shore Safe Communities (MD)
 Effingham County Sheriff's Department (IL)
 Elizabeth Police Department (NJ)
 Emergency Nurses Association
 Eastern Panhandle Safe Community (WV)
 Focus on Safety (IN)
 Franke Publicity (MN)
 General Federation of Women's Clubs
 Green River Area Development District (KY)
 Hamilton County Health Dept. (TN)
 Holmes County Health Department (OH)
 Houston Safe Communities (TX)
 Illinois Traffic Safety Leaders
 Independent Insurance Agents & Brokers of America
 Injury Prevention Center of Greater Dallas
 Injury Prevention Center (RI)
 Joliet Police Department (IL)
 KIDS N' CARS & TRUNC
 Louisiana Safe Kids
 Loyola University Burn & Shock Trauma Institute
 Macoupin County Public Health Department (IL)
 MADD (FL)
 MADD (NY)
 MAKUS Buckle Up! Drive Safely!
 Maryland Kids in Safety Seats
 Maryland State Police
 Massachusetts State Police
 Mayo Clinic Hospital (AZ)
 Missouri State Safety Center
 Montgomery County Child Passenger Safety Program
 National Alcohol Enforcement Training Center
 National Center for Bicycling and Walking
 National Coalition for School Bus Safety
 National Latino Council on Alcohol & Tobacco Prevention
 National Peer Helpers Association (MO)
 New Kent County Sheriff's Office (VA)
 New York Coalition for Transportation Safety
 NFPA – National Fire Protection Association
 North Alabama Highway Safety Officers
 Northeast Colorado Health Department
 100 Black Men of Augusta, Inc. (GA)
 Operation Student Safety on the Move (OR)
 Office of Highway Safety (MS)
 Pennsylvania Traffic Injury Prevention Program
 P.A.T.T. – Parents Against Tired Truckers
 Phelps Memorial Health Center (NE)
 Preventing Alcohol Related Crashes (WI)
 Professional Insurance Agents of Ohio
 Providence Safe Communities Partnership (RI)
 Rehabilitation Institute of Chicago
 Remove Intoxicated Drivers (RID) USA
 Richland County Safe Communities (OH)
 Riverside County Sheriff's Department (CA)
 St. Louis Fire Dept. (MO)
 St. Mary's Highway Safety (MD)
 SADD (NY)
 Safe and Sober Law Enforcement (MN)
 Safe Communities Coalition Augusta (GA)
 Safe Communities of Miami County (OH)
 Safe Communities Salisbury State University (MD)
 Safe Communities Southwest Coalition
 Safer New Mexico Now
 Safety Council of Southwestern Ohio
 SAFE – Seatbelt Awareness for Everyone
 Safe Traffic System, Inc. (IL)
 State Farm Insurance Companies
 STOP DUI
 The Progressive Corporation
 Think First of Ark-La-Tex
 Think First Missouri
 Think First National Rehabilitation Hospital
 Trauma Foundation
 Utah County Health Department
 Virginia Association of Chiefs of Police
 Williams County Health Department (OH)

Motor Carrier Safety



Large truck deaths decreased slightly in 2002, yet 4,902 people died in crashes involving large trucks. On May 25, 1999, the Secretary of Transportation announced a goal of reducing truck crash fatalities by 50 percent within 10 years. There has been little progress over the past four years, and the Federal Motor Carrier Safety Administration (FMCSA) is unlikely to meet this goal.



Strong Public Support for Making Large Truck Safety a Top Priority

In the case of highway safety, how important do you feel it is that the federal government be concerned with large truck safety on the highways – very important, somewhat important, not very important, not at all?

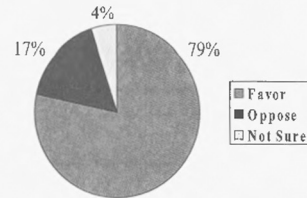
Louis Harris Poll 1996

To Improve Motor Carrier Safety, Congress Should . . .

- Require motor carriers transporting hazardous materials (HazMat) to undergo preliminary safety reviews and annual compliance reviews.
- Perform stringent inspections of international trucks transporting HazMat.
- Equip HazMat motor carriers with safety/security technologies.
- Continue federal requirements to ensure motor carrier safety at the U.S.-Mexico border.
- Prevent truck driver fatigue by requiring electronic on-board recorders to monitor compliance with federal hours of service rules.
- Require applicants for a commercial drivers license (CDL) to have a personal driving record free of serious violations.
- Establish a nationally uniform commercial driver skills test.
- Coordinate the issuance of the medical driver fitness certification with CDL renewal.
- Require safety reviews and examinations of new motor carrier entrants.
- Increase State efforts to enforce speed limits for commercial motor vehicles.
- Oppose any rollback in truck safety, including increases in truck size and weights.

Child Safety

Motor vehicle crashes are the leading cause of death and injury to children and teenagers. In 2002, 2,584 children up to age 16 were killed and nearly 300,000 more were injured as both occupants and non-occupants of motor vehicles. Although no national figures are collected by the federal government, independent safety organizations have found that there are serious safety risks involving children left unattended in vehicles or standing behind vehicles that are backing up, resulting in hundreds of deaths and thousands of injuries each year.



Strong Public Support for Requiring Booster Seats

Would you favor or oppose a law in your state that would extend the requirement so that children between 4 and 8 years of age would be properly restrained in a booster seat while riding in a car?

Louis Harris Poll 2001

To Improve Child Safety, Congress Should . . .

Have NHTSA Collect and Publish Data on

- Child fatalities and injuries in parked and inoperable vehicles involving heat, cold, suffocation and other dangerous conditions.
- Strangulation and injuries involving sunroofs and power windows.
- Backing-up collisions.

Have NHTSA Require

- Power window and sunroof systems that will not kill or injure children when activated.
- Enhanced driver rear visibility to prevent backing crashes into adults and children.

Pass a Child Passenger Safety Bill

- Include incentive grants to States for enactment of booster seat laws.
- Incentive grant funds should be used for enforcement, education, and providing families in need with free child safety seats.



Roadway Safety

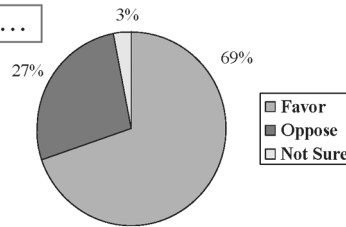
Highway design plays a crucial role in highway and auto safety. A safe highway environment provides traffic control measures that guide drivers through intersections, and roadside “hardware” that protects drivers when crashes do occur. Three major areas of roadway design and data collection need dramatic attention: highway barriers, work zone safety, and intersection safety.

To Improve Roadway Safety, Congress Should . . .

- **Provide Funds for States to Install State-of-the-Art Highway Barriers that Safely Restrain Larger Passenger Vehicles and Large Commercial Vehicles.** Highway barriers are important to prevent vehicle incursions into dangerous roadside areas or into opposing streams of traffic. Current barriers are ineffective at restraining large vehicles and even increase the chances that light trucks such as pickup trucks, sport utility vehicles (SUVs), and large vans will roll over. This is particularly dangerous given the explosive increase in SUVs on American roads.

- **Require State Collection of Uniform Highway Work Zone Crash Data** and report that data to the Federal Highway Administration (FHWA). Work zone-related fatal crashes claim over 1,000 lives a year, but states are not required to report work zone crash data to FHWA. In addition, work zone fatal crash figures are not related to any exposure measures such as vehicle-miles-traveled, fatal crashes per 100,000 population, or number of registered vehicles.

- **Enhance Intersection Safety.** About 10,000 fatal crashes occur annually in or near some type of intersection, and nearly half of all injury crashes are intersection-related. Congress should provide separate, dedicated federal funding for states and local governments to accomplish intersection safety enhancement projects.



Strong Public Support for Red Light Cameras at Busy Intersections

In some cities, red light cameras are used at busy intersections to identify license plates or drivers who run red lights. Warning signs are posted to alert drivers to the use of cameras and to deter drivers from running red lights. Would you favor or oppose a law in your state that would allow cities to develop red light camera programs, as a supplement to police enforcement?

Louis Harris Poll 2001



State Highway Safety Law Chart

As of May 19, 2003

STATE	Standard Enforcement Safety Belt Law	.08 BAC Per Se Law	Repeat Offender Law Complies with TEA-21	Open Container Law Complies with TEA-21	Graduated Driver Licensing Law (For specific provisions, see attached key)	All-Rider Motorcycle Helmet Law	Child Restraint Law No Gaps	Booster Seat Law	Statewide Red Light Camera Law	Unattended Children in Vehicles Law
Alabama	X	X	X	X	X ¹	X				
Alaska		X			X ¹		X			
Arizona		X	X	X			X			
Arkansas		X	X		X ¹			X		
California	X	X		X	X ^{1, 2, 4}	X	X	X	X	X
Colorado			X		X ^{1, 2}		X	X	X	
Connecticut	X	X					X			X
Delaware			X		X ^{1, 3}		X	X	X	
District of Columbia	X	X	X	X	X ^{1, 2, 4}	X	X	X	X	
Florida		X	X	X	X ^{1, 2}		X			X
Georgia	X	X	X	X	X ^{1, 4}	X	X		X	
Hawaii	X	X	X	X			X			
Idaho		X	X	X	X ^{2, 3}					
Illinois		X	X	X						X
Indiana	X	X	X		X ⁴					
Iowa	X	X	X	X	X ¹					
Kansas		X	X	X	X ²					
Kentucky		X	X	X	X ¹		X			
Louisiana	X	X								
Maine		X	X	X	X ^{2, 4}		X	X		
Maryland	X	X	X	X	X ²	X	X	X	X	X
Massachusetts				X	X ^{1, 4}	X	X			
Michigan	X		X	X	X ^{1, 2}	X	X			
Minnesota				X	X ^{1, 2}					

STATE	Standard Enforcement Safety Belt Law	.08 BAC Per Se Law	Repeat Offender Law Complies with TEA-21	Open Container Law Complies with TEA-21	Graduated Driver Licensing Law (For specific provisions, see attached key)	All-Rider Motorcycle Helmet Law	Child Restraint Law No Gaps	Booster Seat Law	Statewide Red Light Camera Law	Unattended Children in Vehicles Law
Mississippi		X	X		X ^{1,3}	X				
Missouri		X	X		X ¹	X	X			
Montana		X	X				X	X		
Nebraska		X	X	X		X	X	X		X
Nevada			X	X	X ²	X	X			
New Hampshire		X	X	X			X			
New Jersey	X		X	X	X ^{1,4}	X	X	X		
New Mexico	X	X		X	X ^{1,2,4}		X			
New York	X	X		X	X ³	X	X			
North Carolina	X	X	X	X	X ^{1,3,4}	X	X			
North Dakota		X	X	X	X ¹		X			
Ohio		X		X	X ^{1,2}					
Oklahoma	X	X	X	X						
Oregon	X	X		X	X ^{1,2,4}	X	X	X		
Pennsylvania			X	X	X ^{1,2}	X	X	X		X
Rhode Island		X		X	X ¹			X		
South Carolina				X	X ^{1,2,3}			X		
South Dakota		X		X	X ³		X			
Tennessee		X			X ^{1,2,4}	X				
Texas	X	X	X	X	X ^{1,4}		X			X
Utah		X	X	X	X ^{2,4}		X			
Vermont		X		X	X ^{1,2,4}	X	X			
Virginia		X	X		X ^{1,2}	X	X	X		
Washington	X	X	X	X	X ^{1,2,4}	X		X		X
West Virginia					X ¹	X	X			
Wisconsin			X	X	X ^{1,2,4}					
Wyoming		X					X	X		
Total # of States	18 & DC	39 & DC	33 & DC	36 & DC	41 & DC	20 & DC	33 & DC	16 & DC	5 & DC	9
% of U.S. pop. covered by law	54%	79%	63%	83%	78%	54%	71%	33%	19%	32%

GDL Key For State Law Chart

Graduated Driver Licensing (GDL) Systems—Optimal graduated driver licensing systems consist of a learner's stage, an intermediate stage and an unrestricted driving stage. Within each of these stages, there are provisions that are optimal to providing safe circumstances under which to develop driving skills. The four provisions which are referenced on the law chart are listed below, numbered 1–4. Each state's law is intricate and this chart should serve only as a guide. To fully understand a state's law, one should review it.

A. Learner's Stage

1. *Six Month Holding Period:* A novice driver must be supervised by an adult licensed driver at all times. If the learner remains conviction free for six months, he or she progresses to the intermediate stage. In an optimal provision, there is not a reduction in this amount of time if the driver takes a driver's education course.
2. *30–50 Hours of Supervised Driving:* A novice driver must receive 30–50 hours of behind-the-wheel training with an adult licensed driver. In an optimal provision, there is not a reduction in this amount of time if the driver takes a driver's education course.

B. Intermediate Stage:

While optimally this stage should continue until age 18, states have been given credit in this chart for having the following two restrictions for any period of time, *i.e.*, 6 months.

3. *Nighttime Restriction:* Because a majority of the crashes involving teens occur before midnight, the optimal period for supervised nighttime driving is from 9 or 10 p.m. to 5 a.m. Unsupervised driving during this period is prohibited.
4. *Passenger Restriction:* Limits the number of teenage passengers that ride with a teen driver driving without adult supervision. The optimal limit is no more than one teenage passenger. Sometimes family members are excepted.

.08 BAC Per Se Laws in the States

On October 23, 2000, President Clinton signed a federal .08 BAC per se law which required each state to enact .08 BAC per se legislation by October of 2003. States that do not pass it before October 1, 2003 will have 2% of certain highway construction funds withheld in 2004. The penalty increases by 2% each year after that, up to 8% in 2007 and every year thereafter. States that enact a .08 BAC per se law by October 1, 2006 will have any withheld funds returned.

In the 17 years between the date of enactment of the first .08 BAC per se law and the day President Clinton signed the federal sanction, 19 states and the District of Columbia enacted .08 BAC per se laws. In just the two and a half years since the federal law was passed, 20 additional states have enacted .08 BAC per se laws.

Passed .08 BAC Per Se Law Prior to October 2000 (19 + DC)	Passed .08 BAC Per Se Law After October 2000 (20)	Have Not Yet Passed .08 BAC Per Se Law (11)
Alabama California District of Columbia Florida Hawaii Idaho Illinois Kansas Kentucky Maine New Hampshire New Mexico North Carolina Oregon Rhode Island Texas Utah Vermont Virginia Washington	Alaska Arizona Arkansas Connecticut Georgia Indiana Iowa Louisiana Maryland Mississippi Missouri Montana Nebraska New York North Dakota Ohio Oklahoma South Dakota Tennessee Wyoming	Colorado Delaware Massachusetts Michigan Minnesota Nevada New Jersey Pennsylvania South Carolina West Virginia Wisconsin

Repeat Offender and Open Container Laws in the States

On May 22, 1998, President Clinton signed the Transportation Equity Act for the 21st Century, or TEA-21. This federal law included a redirection of highway construction funds for those states that did not have repeat offender and open container laws on the books by October 1, 2000. In 2000 and 2001, states that had not enacted these laws had 1.5% of certain federal-aid highway funds transferred to the state's Section 402 State and Community Highway Safety Grant Program or to hazard elimination. In 2002 and in each year thereafter, 3% of those funds will be redirected.

Prior to the passage of TEA-21, all 50 states and the District of Columbia had some form of a repeat offender law and nearly all of them had open container/anti-consumption laws. However, most of these laws were weak and did not comply with the requirements in TEA-21. The states listed on the following pages as having had repeat offender or open container laws before May of 1998 are the only ones whose preexisting laws complied with TEA-21.

It has been 5 years since TEA-21 was enacted, and there is still a long way to go. One-third of the nation's states (17) have yet to pass TEA-21 complaint repeat offender laws and nearly as many (14) still have not passed TEA-21 compliant open container laws.

TEA-21 Compliant Repeat Offender Law: Any individual convicted of a second or subsequent offense for driving while intoxicated must have their license suspended for a minimum of 1 year, be subject to having their motor vehicles impounded or equipped with ignition interlock, receive alcohol abuse treatment as appropriate, and:

- (i) for 2nd offense, not less than 30 days community service or 5 days of imprisonment; and
- (ii) for 3rd and subsequent offense, not less than 60 days community service or 10 days of imprisonment.

Passed Repeat Offender Prior to May 1998 (4 + DC)	Passed Repeat Offender After May 1998 (29)	Have Not Yet Passed TEA-21 Compliant Repeat Offender Law (17)
District of Columbia Maine Michigan New Hampshire Washington	Alabama Arizona Arkansas Colorado Delaware Florida Georgia Hawaii Idaho Illinois Indiana Iowa Kansas Kentucky Maryland Mississippi Missouri Montana Nebraska Nevada New Jersey North Carolina North Dakota Oklahoma Pennsylvania Texas Utah Virginia Wisconsin	Alaska California Connecticut Louisiana Massachusetts Minnesota New Mexico New York Ohio Oregon Rhode Island South Carolina South Dakota Tennessee Vermont West Virginia Wyoming

TEA-21 Compliant Open Container Law: The possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) must be prohibited.

Passed Open Container Prior to May 1998 (13 + DC)	Passed Open Container After May 1998 (23)	Have Not Yet Passed TEA-21 Compliant Open Container Law (14)
California District of Columbia Illinois Kansas Michigan Nevada New Hampshire North Dakota Ohio Oklahoma Oregon Utah Washington Wisconsin	Alabama Arizona Florida Georgia Hawaii Idaho Iowa Kentucky Maine Maryland Massachusetts Minnesota Nebraska New Jersey New Mexico New York North Carolina Pennsylvania Rhode Island South Carolina South Dakota Texas Vermont	Alaska Arkansas Colorado Connecticut Delaware Indiana Louisiana Mississippi Missouri Montana Tennessee Virginia West Virginia Wyoming

Senator SMITH. Thank you. Excellent testimony. And just as a courtesy to everyone else we want to hear from, whatever you can do to consolidate, we'd appreciate it, because I want to give everybody a chance to have their say before this vote is called.

Ms. Swanson.

STATEMENT OF KATHRYN SWANSON, DIRECTOR, MINNESOTA OFFICE OF TRAFFIC SAFETY AND CHAIR, GOVERNORS HIGHWAY ASSOCIATION ON BEHALF OF THE GOVERNORS HIGHWAY SAFETY ASSOCIATION (GHSA)

Ms. SWANSON. Thank you. My name is Kathy Swanson. I'm the Director of Traffic Safety in Minnesota's Department of Public Safety, and I am also currently serving as Chair of the Governors Highway Safety Association, and that's the role in which I'm speaking today.

States have made significant advances in modifying safe behavior practices of drivers and road users. The fatality rate is the lowest on record and the national safety belt use rate is the highest on record. Pedestrian fatalities are down, child restraint usage is up, and fatalities involving young children are down. These advances were made possible in large part due to programs and resources provided under the Transportation Equity Act for the 21st Century, or TEA-21.

Yet, there is considerably more to do. We have reached the easily influenced and changed their behavior so that they no longer pose as significant of a threat on the Nation's highways. As Senator

Lautenberg said earlier, we have picked the low-hanging fruit, now it's time to break out the tall ladders.

Now we have to reach those populations that are resistant to the traditional safety messages and programs. To make inroads for these populations, significant efforts must be undertaken to reduce motor vehicle related crashes, deaths and injuries from the unacceptable levels where they are today. The states need appropriate Federal tools and additional Federal resources in order to make further progress in the war on unsafe highways.

First and foremost, states need stable and reliable sources of funding in order to address the behavioral aspects of highway safety. With assured funding, states can plan their highway safety programs over a longer period of time, facilitate their work with and get commitments from grantees, and plan and implement improvements to highway safety information systems. The budgetary firewalls that were introduced under TEA-21 have provided that stability, and GHSA strongly supports their continuation in the reauthorization.

Second, states also need to retain the right to determine how Federal funds are spent within their states without Federal approval of each and every aspect of the State plans and programs. With this flexibility which states have had since 1994, it has enabled states to focus on states' data-driven problem identification and performance-based strategies and has allowed the states and the Federal Government to work together in a more cooperative basis. GHSA believes that the National Highway Traffic Safety Administration already has sufficient authority to oversee State programs and to encourage enhancement in those programs. We're working with NHTSA to ensure that the oversight authority is applied in a more consistent basis throughout the country. We would vigorously oppose any effort to revert to the project-by-project approval for authority over State plans that NHTSA had prior to 1994.

Third, states need fewer Federal programs to administer. TEA-21 authorized 8 grant programs and 2 penalty programs, all of which had to be administered by the State highway safety offices. There are different program purposes, scopes and deadlines. The proliferation of Federal grant programs, not the proliferation of Federal grant money but a number of programs, made it difficult to approach safety in a comprehensive and coordinated manner, and has resulted in fragmentation and duplication of efforts. GHSA recommends consolidation of all of the grant programs into a single behavioral highway safety program with an occupant protection incentive tier and an impaired driving incentive tier. These incentives would be similar to the existing incentive programs but would address some of the weaknesses in those programs. Incentives would be given to states that enact specific legislation, improve their performance, or maintain a superior level of performance. GHSA's specific recommendations for the consolidated behavioral grant program were submitted for the record.

Fourth, states need to have adequate resources to be able to address safety problems. Current resources will enable states to maintain the programs that have been implemented under TEA-21, but GHSA recommends that at a minimum, the single Federal

behavioral safety grant be funded at \$500 million, \$50 million above the Fiscal Year 2003 levels. With additional funding, states could support significantly greater levels of enforcement of the highway safety laws, enforcement that is needed in order to reach the hard-to-influence populations. With additional funding, states could also undertake a whole range of programs to address specific target and high-risk populations and emerging highway safety issues.

The American Association of State Highway and Transportation Officials, or AASHTO, has supported the enactment of an additional \$1 billion a year for safety in the next reauthorization. These funds would not be used to create new programs but to enhance the funding of existing safety construction programs and the consolidated behavioral safety program. GHSA endorses this proposal. If Congress identifies ways to provide increased funding in the next reauthorization, then \$1 billion a year of the new funding should be set aside for safety programs.

Fifth, states need timely, accurate and accessible data with which to make safety-related decisions. States use data to identify significant safety problems, select appropriate safety countermeasures and evaluate the effectiveness of the programs. Nearly all states have strategic plans for improving their highway safety information systems, but we lack the resources to be able to make those improvements. Consequently, a new data incentive grant program is needed.

Finally, states need much more research on driver and road user behavior. Relatively little is known about the relative effectiveness of many safety laws in most highway safety programs. Further, there has been no recent research on crash causation. As a result, states implement programs without knowing if they are addressing the root cause or whether the implemented programs will work.

Our additional recommendations on Federal lobbying restrictions, new sanctions, paid advertising and technical corrections to the penalty programs are contained in the more detailed statement that we submitted for the record. Thank you for the opportunity for being able to address the Committee.

[The prepared statement of Ms. Swanson follows:]

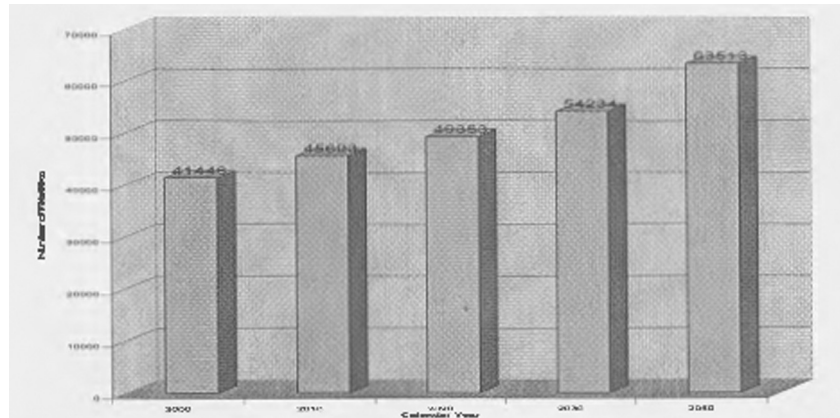
PREPARED STATEMENT OF KATHRYN SWANSON, DIRECTOR, MINNESOTA OFFICE OF TRAFFIC SAFETY AND CHAIR, GOVERNORS HIGHWAY ASSOCIATION ON BEHALF OF THE GOVERNORS HIGHWAY SAFETY ASSOCIATION (GHSA)

Introduction

Good afternoon. My name is Kathryn Swanson, and I am the Director of the Minnesota Office of Traffic Safety and the Chair of the Governors Highway Safety Association (GHSA). GHSA is the national, nonprofit association that represents state and territorial highway safety offices (SHSO). Its members are appointed by their governors to design, implement and evaluate programs that affect the behavior of motor vehicle drivers, pedestrians, bicyclists and motorcyclists. As part of their responsibilities, GHSA members administer Federal highway safety grant programs and penalty transfer programs. I appreciate the opportunity to share the Association's thoughts with you on the reauthorization of these Federal highway safety programs.

More than 42,000 people were killed and three million injured in motor vehicle-related crashes in 2002. Forty-two percent of those crashes were ones in which alcohol was involved. Nearly 5,000 pedestrians, more than 3,000 motorcyclists were killed and nearly 8,000 young drivers were killed in motor vehicle-related crashes. GHSA is very concerned, as are others in the highway safety community, that these

numbers are beginning to move upward after several years of holding steady. With the present trend, no change in the risk of a fatal crash on a per population basis and no assumptions about future demographic changes, the absolute number of fatalities can conservatively be expected to increase to 63,513 by 2050—an increase of 48 percent over current levels or approximately 350 additional fatalities every year.¹



The Transportation Equity Act for the 21st Century (TEA-21) was designed to reduce these fatalities and injuries by addressing all aspects of highway safety—the roadway, the vehicle and the driver. My remarks will be limited to the areas that are the responsibility of GHSA members—the SHSOs—and will focus on the programs that address the *behavior* of the driver and other road users.

As enacted in TEA-21, the 402 program—the basic Federal highway safety grant program through which every state receives funding—and the 410 alcohol incentive grant program were reauthorized. TEA-21 also authorized four new occupant protection incentive grants (the 405, 157 basic, 157 innovative, and 2003(b) programs); a second impaired driving incentive grant program (the 163 program); a data improvement program (the 411 program); and two penalty transfer programs, the 154 open container and the 164 repeat offender programs). The SHSO's are responsible for administering all of these programs.

Funding under the 402, 405, 410, and 2003(b) programs can only be used to address a variety of behavioral highway safety-related problems. The 411 funds can only be used to plan for the improvement of highway safety information systems. A state that is eligible for the 157 basic and 163 grants may use the funds for any purpose under Title 23 of the U.S. Code. 157 innovative funds can only be used for purposes specified by the National Highway Traffic Safety Administration (NHTSA) in its annual announcement of the availability of grant funds. States that are not in compliance with the open container or repeat offender requirements may use the funds for impaired driving-related purposes or for activities under the Hazard Elimination Program.

Two years ago, GHSA embarked on an effort to evaluate the Federal behavioral highway safety grant programs authorized under TEA-21. The results of that review were published last year in a report entitled *Taking the Temperature of TEA-21: An Evaluation and Prescription for Safety* which is available on GHSA's website, www.statehighwaysafety.org. Our recommendations for the next reauthorization are based largely on the findings in our report. I would like to review several of them.

Safeguard Funding

Prior to TEA-21, highway safety grant programs were authorized at one level and almost always funded at a reduced level. SHSO's never knew from year to year how much Federal money would be appropriated, so it was difficult to plan, particularly for long-term multi-year projects, which are often necessary to see sustained behavioral changes.

TEA-21 changed that by creating budget firewalls around highway safety programs so that the funding could only be used for highway safety purposes. This has

¹ Source: analysis prepared for the American Association of State Highway and Transportation Officials, 2002.

proved to be of tremendous benefit to the SHSO's, who are responsible for administering Federal grant funds. The firewalls have meant that there is a far greater degree of certainty in the state planning process than ever existed in the past. States know from year to year what to expect in terms of grant funding and they can better estimate the level of funding for which their states may be eligible. GHSA strongly supports the continuation of the budget firewalls for Federal highway safety grant programs and believes that it should be the top priority for reauthorization.

States also want to retain the lead in determining how the Federal grant funds should be spent in their states. Prior to 1994, states submitted annual Highway Safety Plans to NHTSA's regional offices. The regional offices reviewed and approved every single planned project. The plans were approved but often with a four- or five-page list of conditions and comments that the states had to meet if they wanted Federal grant funding. SHSO's felt suffocated by the degree of Federal oversight over, and micro-management of, very small Federal highway safety grant programs.

In 1994, NHTSA piloted a change in the 402 program—the federal highway safety grant program that provides behavioral highway safety funding to every state. The new approach changed the program from one based on specific procedures into a more performance-based program. The performance-based approach was formally adopted by NHTSA in 1998. States are required to submit a Performance Plan in which they identify performance goals and objectives based on data-driven problem identification. The states then program their Federal grant funding for projects that address the identified major safety problems in their states, typically impaired driving, adult occupant protection and child passenger safety. The projects are organized into an annual Highway Safety Plan that is reviewed but not approved by NHTSA. Most states also submit their plans for incentive grant funds as part of the annual Highway Safety Plan. Although TEA-21 added a number of new grant programs, Federal oversight over those programs remained the same as under the 402 program.

The flexibility in the 402 program has allowed states to program their funds in the areas where they are most needed and has given the states the ability to control their own programs. States and NHTSA regional offices work more in partnership with each other rather than under the paternalistic relationship that existed prior to 1994.

Some of our close partners in the highway safety community have called for a return to the federal-state relationship that existed prior to 1994 in which NHTSA had approval authority over every aspect of state plans. GHSA would *vigorously oppose* such an approach. One safety group has suggested that under a new 402 program, if states do not meet certain performance standards within a specified time frame, then they would not be eligible for subsequent 402 funding unless they submitted to a NHTSA assessment to determine program weaknesses and identify program changes that will achieve desired results. Two groups also want the states to implement more uniform programs with similar safety messages from state to state.

GHSA strongly and completely opposes these approaches. Each state's needs, resources and priorities are different, and states should have the ability to use Federal highway safety grant funds in a manner that best fits those needs, resources and priorities. SHSO's have had 37 years' experience implementing the Highway Safety Act of 1966 and have the skills and knowledge to undertake successful highway safety programs without heavy-handed Federal oversight and micro-management.

Furthermore, NHTSA has sufficient *existing* oversight authority to compel states to improve their programs. NHTSA can conduct management reviews, require states to develop and implement improvement plans if they don't show progress after three years, and designate a state a high risk state if the state is not administering its Federal highway safety grant funds appropriately. No additional oversight authority is needed. Rather, NHTSA needs to use this oversight authority in a consistent manner, as is recommended by the General Accounting Office.

GHSA and NHTSA are actively taking steps to improve the planning and management of state highway safety programs. GHSA, using its own resources, is developing a planning workbook and a template for state annual reports. Next year, we plan to develop a template for the annual state Highway Safety Plan which must accompany application for Federal grant funds. We are also working with NHTSA to identify and seek state agreement on 12–15 performance measures which all states would use in setting goals and measuring performance. We have worked with NHTSA to develop the Model Minimum Uniform Crash Criteria (MMUCC) which is a guideline on what traffic crash data elements all states should collect.

GHSA is also working with NHTSA to develop explicit criteria under which a state program review would be triggered. These program reviews would occur if a state did not perform well or had difficulty reaching its goals. NHTSA and the state would then analyze the data and cooperatively develop a program enhancement plan.

GHSA firmly believes that NHTSA has sufficient oversight authority already and that the program review criteria will strengthen that authority. Further, we believe that the initiatives mentioned previously will enhance state planning efforts and move states toward a more data-driven, research-and performance-based approach to solving highway safety problems.

Create One Large Highway Safety Program

As noted previously, TEA-21 created eight separate incentive grant programs and two penalty programs, all of which are managed by SHSO's. Each of these programs has distinct eligibility criteria, separate applications and individual deadlines. This has meant that SHSO's have had to meet almost a deadline a month in order to apply for Federal funds. Even keeping track of the different programs, eligibility criteria and deadlines has been a chore for both NHTSA and the states.

The net result of this proliferation of grant programs is that SHSO's are spending a large percentage of time trying to manage all the grant programs and meet varying programmatic deadlines instead of analyzing state data, implementing safety programs, forming new state and local highway safety partnerships, and evaluating program impact. State staff are stretched to the limit, and states are facing a high degree of staff burnout.

Additionally, and perhaps more importantly, the explosion of programs has caused the Federal approach to highway safety to be duplicative and very fragmented. There are four occupant protection programs and two impaired driving programs, each with a different purpose, scope and eligibility criteria. This has made it difficult for states to address the behavioral aspects of highway safety in a coordinated and comprehensive manner. Clearly, consolidation of grant programs is needed.

GHSA recommends that all of the incentive grant programs [402, 405, 410, 411, 163, 157 basic, 157 innovative, and 2003(b)] should be consolidated into one large highway safety grant program authorization. A portion of the funding should be for 402 grants for which every state is eligible. The remaining funding would be divided into an occupant protection tier and an impaired driving incentive tier—the two current national priority areas in highway safety.

Under the occupant protection incentive tier, states would receive funding if they enacted a primary belt law or increased their safety belt use rate. The program would be based, in large part, on the very successful 157 basic grant program. A portion of the funding in this tier would be set aside for states that did not meet either criteria. These funds would be used to help low-performing states implement innovative occupant protection programs that would boost their safety belt use rates. Unlike the current 157 innovative program, funds would be apportioned according to the 402 formula which would obviate the ability of NHTSA to place additional conditions on the innovative program funds.

Under the impaired driving incentive tier, states would have to meet a number of specific criteria, including a performance-based criteria, just as they do under the current 410 program. (The 410 program, authorized in 1991, has been one of the main sources of funding for state impaired driving programs and has contributed to low impaired driving rates.)

Under the impaired driving tier, the emphasis would be on programs that have been proven to be effective (such as graduated licensing and sobriety checkpoints or saturation patrols), on strengthening the judicial system's response to impaired driving, and on establishing systems that would allow a state to attack impaired driving in a comprehensive manner supported by good data. The program would be structured in a manner similar.

The specific elements of both the occupant protection incentive tier and the impaired driving incentive tier are described in the attached GHSA safety grant program details.

The benefit of this approach is that there would be only one application deadline and one Highway Safety Plan. The management of the consolidated grant program would be far less burdensome for the states as well as for NHTSA. States would be able to address highway safety problems in a more coordinated, less fragmented manner, and would be able to better address the unique circumstances that exist in each state in reaching the identified goals.

Furthermore, the creation of incentive tiers would overcome some of the problems in the current incentive programs. The occupant protection and impaired driving incentive funds would be tied more closely to performance. Resources would be avail-

able to help low-performing safety belt use states. High-performing states would be rewarded for maintaining their superior performance. All states would be rewarded for enacting critical highway safety legislation such as primary safety belt laws or graduated licensing laws.

Continue Adequate Funding

TEA-21 authorized significantly more Federal highway safety grant funding than the states received previously. With this funding, states have been able to implement many highway safety programs that have resulted in behavioral changes, contributing to the lowest fatality rate on record—1.5 fatalities per 100,000 million miles of travel—as well as the highest national safety belt usage rate of 75 percent. Among other things, the additional funding has enabled states to greatly enhance their enforcement of safety belt laws; train more than 35,000 safety professionals in NHTSA's standardized child passenger safety curriculum; purchase radio and television time for safety messages; undertake underage drinking initiatives; and support programs addressing the needs of underserved and diverse populations.

With *increased* funding, states could put more resources into enforcement of traffic safety laws, particularly safety belt, speed and impaired driving laws. Better enforcement would help deter violations of traffic laws. Funds could be used to enhance staffing levels and to purchase new enforcement technology. Better enforcement would help convince populations that are resistant to traditional safety messages—such as the 25 percent of unbuckled drivers—of the need for compliance.

With *increased* funding, states could also address a series of highway safety problems that are not being adequately addressed to date. The funds could be used to target the hard-to-reach populations (such as minority and rural communities) and at-risk populations (such as young males) that are less influenced by traditional highway safety programs and messages. With expanded funding, states could work to reduce pedestrian and bicycle fatalities that currently comprise one out of seven fatalities and motorcycle fatalities that have increased substantially five years in a row. Additional funds could be used to address the problems of older, aggressive and distracted drivers—all significant and growing highway safety issues. With increased funding, states could improve their emergency medical services (EMS) and incorporate new technologies into those services, thereby helping to reduce mortality and injury severity, particularly in rural areas. States could support more community-level highway safety programs. Additional funding could also be used to help incorporate safety into state and metropolitan planning and ensure that all aspects of safety—roadway, behavioral and motor carrier—are coordinated at the state level through performance-based statewide safety plans.

GHSA recommends that, *at a minimum*, \$500 million should be authorized for the consolidated highway safety grant program—about \$50 million above FY 2003 levels. Of that amount, \$200 million should be authorized for the 402 program, \$175 million should be authorized for the occupant protection incentive tier and \$125 million should be authorized for the impaired driving incentive tier. Without adequate funding, it is clear that the increases in fatalities seen in 2001 and 2002 will continue.

The American Association of State Highway and Transportation Officials (AASHTO) has recently issued reauthorization policy calling for the increase of Federal safety funding—both behavioral and construction—by \$1 billion per year. No new safety programs would be funded with the money; rather, the funds would be used to increase funding for existing safety infrastructure programs and for the proposed consolidated behavioral safety program. GHSA endorses this proposal and believes that it would provide the needed funding to conduct the safety activities outlined above.

If Congress determines a way to increase funding in the next reauthorization either through elimination of the gasohol subsidies, indexing the gas tax or other approaches, then a portion of that increase should be authorized for safety programs.

Support a Safety Data Grant Program

TEA-21 authorized a very small data improvement incentive grant program—the 411 program. The purpose of the grant program is to provide states with funding to improve their highway safety information systems (HSIS). Those systems are comprised of crash, hospital, driver licensing, citation, roadway and EMS databases. The 411 program provided funds for states to perform an assessment of their HSIS, form a traffic records coordinating committee with the state agency owners and managers of databases that comprise the state's HSIS, and develop a strategic plan for improving the state's HSIS. In FY 2002, 44 states, Puerto Rico, the Indian Nation and the four territories received 411 funding. No FY 2003 funding was authorized for this program under TEA-21.

The objective of the 411 program is a very limited one and, given that, it has accomplished its objectives very well. However, if the states are to implement the improvements identified in their traffic records assessments and strategic plans, then a large infusion of funds is needed. Hence, there is a need to create a new data incentive grant program that would fund hardware and software improvements, training, and implementation of new data collection, management and analysis technology.

From GHSA's perspective, improvements in highway safety-related data are critical. States use crash and other data to identify new and emerging highway safety problems, quantify the seriousness of existing highway safety problems, select appropriate countermeasures to address identified problems, monitor progress and evaluate the success of these countermeasures. If Congress wants to determine how states are performing, and to enact new programs based on performance, then improvements in state data capabilities are absolutely essential.

It is estimated that only 10 percent of law enforcement agencies have laptop computers from which crash data can be entered from the field. Until state crash data is entered electronically and there is linkage capability with the other safety-related databases in a state's HSIS, states will be forced to rely on inaccurate, untimely and inaccessible paper data systems with which to make important safety decisions.

Pennsylvania recently upgraded its crash data system at a cost of \$6 million. If every state followed suit, it would cost an estimated \$300 million. Hence, GHSA recommends that the data grant program should be authorized at \$50 million a year over six years. Details of the grant program are discussed in the attached report.

Enhance Federal Highway Safety Research

Research has been a part of the Federal highway safety program since its inception in 1966. Section 403 of the Highway Safety Act of 1966 authorized the use of Federal funds to "engage in research on all phases of highway safety and traffic conditions." Section 403 also authorized cooperative agreements for the purpose of "encouraging innovative solutions to highway safety problems."

TEA-21 authorized \$72 million for each of six years for the Section 403 research and development program. Of that amount, only \$7 million was earmarked for driver and behavioral research in FY 2002. As a result of this low level of funding, many research needs are completely or partially unmet. States are compelled to implement programs for which there is not a strong research justification.

Currently, for example, there is a significant body of research on graduated licensing laws, per se impaired driving laws, repeat offender sanctions, primary safety belt laws, the impact of repealing motorcycle helmet laws, Selective Traffic Enforcement Programs (STEP's) and enforcement of safety belt laws. NHTSA is just completing a series of studies on distracted driving.

However, there is a significant gap in the current state of knowledge about most safety issues and the effectiveness of most safety countermeasures. Among other things, there is no current research on crash causation. The last crash causation study was conducted more than thirty years ago. There is little research on effective pedestrian, drowsy driving, or aggressive driving countermeasures, behavioral programs for older drivers, and community traffic safety programs. There is little research on effective ways to reach the minority community with highway safety programs. There is no research to determine why motorcycle fatalities have increased so dramatically in the last five years and whether motorcycle licensing and education have any impact on safety. There is no research on the effectiveness of countermeasures recommended in the Federal Highway Administration's Older Driver Design Handbook. There has been little research on the best way to improve the content of driver education programs for young and novice drivers. Very little research has been conducted on programs that reach the young adult drinking driver—those aged 21–34. There is little research on the impact of various safety messages and on the efficacy of enforcement programs other than STEP's. There is virtually no research on the interactive effects of combined roadway and behavioral improvements. In effect, there is considerably more research to be conducted.

The issue of open container legislation is illustrative of the need for further research. TEA-21 mandated that states enact open container legislation by October 1, 2000 (FY 2001) or have a portion of their highway construction funding transferred to the 402 program. However, no research had been conducted to determine whether open container legislation has any impact on impaired driving. In fact, NHTSA has only recently completed such research and has not broadly disseminated the results. Consequently, SHSOs have had to go before their state legislatures without research to support open container laws.

Additionally, there is no formal process by which highway safety research priorities are set. NHTSA researches issues that are of interest to the agency or are con-

sistent with their national goals and program needs. State research needs are sometimes secondary, and states do not have a formal mechanism with which to provide input into the research agenda setting process. There is nothing comparable to the National Cooperative Highway Research Program for safety in which states, through the American Association of State Highway and Transportation Officials, play a very strong role in determining research priorities.

GHSA recommends the Federal driver and behavioral research program be expanded to \$20–\$25 million a year and that an ongoing safety program should be authorized and modeled after the National Cooperative Highway Research Program. GHSA also recommends that the Future Strategic Highway Research Program (FSHRP) should focus, in part, on safety, including the behavioral aspects of highway safety. The safety funding under FSHRP should be used to undertake a comprehensive research program on crash causation and some of the funding should be used to evaluate the effectiveness of highway safety countermeasures.

Alter Lobbying Restrictions

In response to concerns raised by the motorcycle user community, Congress enacted new lobbying prohibitions in TEA-21 and in subsequent appropriations legislation. TEA-21 prohibits the use of Federal funds for “any activity specifically designed to urge a State or local legislator to favor or oppose the adoption of any specific *pending State or local legislation*.” Section 326 of the FY 2000 DOT Appropriations Act prohibits the use of Federal funds for any activity “intended to influence in any manner a Member . . . of a State legislature to favor or oppose by vote or otherwise, any legislation or appropriation by . . . a State legislature . . . after the introduction of any bill or resolution in a State legislature proposing such legislation or appropriation.”

NHTSA has interpreted these statutory provisions to mean that recipients of Federal funds, including SHSO's and their grantees, cannot lobby on state legislation once the bill or resolution has been introduced in the legislative body. This means that SHSO's cannot advocate for safety legislation introduced by their governor or a state legislator. It also means that SHSO's cannot, after a bill or resolution is introduced, use Federal funds to support state coalitions that have been formed to favor specific safety legislation. NHTSA policy also encourages SHSO staff to testify before a state or local legislative body only if there is a *written* invitation to do so.

These provisions have had a chilling effect on the advocacy activities of SHSO's. States no longer believe they can show support for *any* safety legislation, even if their own governors introduce it. Further, the provisions appear to be counterproductive. The 163, 405 and 410 incentive programs, the 154 and 164 penalty programs, and the .08 Blood-Alcohol Concentration (BAC) sanctions enacted after TEA-21 are all based on passage of state safety legislation. If states are going to qualify for the incentives and come into compliance with the penalties and sanctions, then they need the ability to affect state legislation.

GHSA recommends, at a minimum, that Congress should alter the lobbying restrictions to allow SHSO's and their grantees to lobby state legislatures on behalf of positions approved by governors and their administrations.

Continue Paid Advertising

Prior to TEA-21, NHTSA policy prohibited the use of Federal highway safety funding for paid advertising. SHSO's were compelled to use public service announcements (PSA's) in order to implement their safety messages. While PSA's are less costly than paid media, they have limited impact because they are generally aired during off-peak times.

TEA-21 changed that by allowing the use of 402 funding for paid advertising for FY 1999 and 2000. (157 and 163 funds that were used for 402 purposes could also be spent on paid advertising.) Congress extended the permission to FY 2001, 2002, and 2003 as well.

The result has been that larger audiences view safety messages during prime time. Although there are scant evaluative data on paid advertising, there is ample anecdotal information that the state safety paid advertising is paying off. Further, there is supporting evaluation data from the FY 2001 safety belt enforcement effort in NHTSA Region IV (the southeastern region) and the FY 2002 safety belt enforcement demonstration program with thirteen states in which paid advertising was used. The combination of paid advertising and high visibility enforcement in that region resulted in significant increases in safety belt use under both of those efforts.

GHSA strongly supports paid advertising and recommends that its use continue to be allowed in the next reauthorization.

Avoid New Sanctions and Penalties

TEA-21 authorized two new penalty provisions (the 154 open container penalty and the 164 repeat offender penalty) but no new sanctions. Following TEA-21, Congress authorized a new sanction for states that fail to enact .08 BAC legislation.

There are currently 18 penalties and sanctions with which states must comply. Of those, seven are safety-related (minimum drinking age, drug offenders, use of safety belts, zero tolerance, open containers, repeat offenders and .08 BAC). Three of the seven have been enacted in the last six years.

GHSA and other state associations generally oppose sanctions and penalties for a number of reasons. Sanctions are not universally effective. Impaired driving-related sanctions appear to have strong public support and appear to work reasonably well. Other sanctions and penalties, such as those for the National Maximum Speed Limit and the mandatory motorcycle helmet legislation enjoyed little public support, were abysmal failures and were subsequently repealed.

Sanctions are often counterproductive. With fewer highway funds, the conditions of highways deteriorate and become less safe. Withholding funds only exacerbates the safety problem. Sanctions penalize the state broadly without specifically targeting the entity that perpetrated the safety problem. Since there is no clear relationship between the safety problem and the policy solutions (withholding of construction funds), states are not motivated to act.

TEA-21 encourages state agencies to work together to solve safety problems, but sanctions and penalties pull those agencies apart. The mandatory motorcycle penalties divided SHSO's from state Departments of Transportation (DOT's), causing them to oppose each other instead of working together toward enactment of motorcycle helmet laws. Opposition to the penalties by state DOT's contributed to their repeal. Similar friction has been felt by many SHSO's with respect to the open container and repeat offender penalties. SHSO's have been blamed for the TEA-21 penalties even though they were not responsible for their enactment. New penalties and sanctions make it harder for the SHSO's to work with state legislatures, even under the limited conditions allowed by TEA-21.

Frequent sanctioning by Congress makes states very resentful and less motivated to enact the requisite legislation. Some states will wait until the last minute and then enact legislation that is minimally acceptable in order to avoid the sanction, as has been the case with about a dozen states and the .08 sanction.

As former President Dwight Eisenhower said, "You do not lead by hitting people over the head—that's assault, not leadership." For the reasons outlined previously, GHSA recommends that no new sanctions or penalties be enacted.

Make Technical Changes to Current Penalties

TEA-21 requires states to enact, by October 1, 2000, repeat offender legislation or face the transfer of certain Federal highway funding into the 402 program. For second or subsequent alcohol-related offenses, state law must require that: (1) the offender's license be suspended for not less than one year; (2) the offender's vehicle be subject to impoundment or immobilization or the installation of an ignition interlock; (3) the offender receives an assessment of the degree of alcohol abuse and treatment as appropriate; and (4) in the case of a second offense, the offender must receive not less than five days in jail or 30 days of community service and in the case of a third or subsequent offense, not less than 10 days in jail and 60 days of community service.

As of October 1, 2002, 32 states plus D.C. and Puerto Rico were in compliance with the repeat offender provisions. A number of states represented on this Committee—Alaska, California, Louisiana, Massachusetts, Montana, North Dakota, South Carolina, and West Virginia—were among the states in non-compliance at that time. A number of technical problems with the repeat offender provisions contributed to the relatively low level of compliance.

One major problem concerns the license suspension provisions. NHTSA has interpreted the Section 164 language to mean that the mandatory minimum one-year license suspension must be a *hard* suspension with no hardship waiver or restricted license. Law enforcement officials are often reluctant to charge a repeat offender under those circumstances because they view the penalty as too harsh. Judges are also reluctant to give an offender a hard suspension because it would deprive a person of his/her livelihood for an entire year. Rural and indigent offenders would be especially impacted because they may be unable to arrange for alternate transportation, particularly transportation to treatment facilities. Offenders would have fewer resources to pay for interlock devices, impounded vehicles or treatment. State legislatures are often reluctant to enact the one-year hard suspension because it encourages repeat offenders to avoid the sanction by driving without a license. In fact,

the driving-while-suspended problem is a growing one and is of increasing concern to both NHTSA and GHSA and its state members.

A related problem is that NHTSA regulations do not permit the installation of interlock devices until *after* the hard suspension period. Current research shows that ignition interlock devices are very successful in reducing recidivism when used *in combination* with restricted licenses, supervised probation and treatment. By delaying the use of interlocks, the NHTSA regulations do not allow the offender to drive to work or treatment, thereby increasing the risk of recidivism. The regulations are inconsistent with NHTSA's own research and show a misunderstanding of the purpose of the ignition interlock devices.

At the opposite end of the spectrum, the NHTSA regulations do not place a time limitation on vehicle impoundment and immobilization. An offender's vehicle can be impounded or immobilized only for a few hours and then returned to the offender. As a result, the impoundment/immobilization sanction can be expected to have little impact on repeat offenders.

Another problem with the regulations is that the impoundment/immobilization/interlock sanction must apply to every vehicle *owned* by the offender. Hence, if an offender owns five vehicles, the sanction must apply to every vehicle. State legislatures are often reluctant to enact laws that would penalize car collectors and owners of fleets of vehicles. More importantly, the language encourages offenders to change the title of their vehicles to another family member in order to avoid the sanction.

GHSA recommends that the one-year suspension be changed to a limited hard suspension (*e.g.*, 60 or 90 days) with a restricted license and imposition of an ignition interlock device during a subsequent restriction period. Further, there should be a time limit (*e.g.*, 10–30 days) on the impoundment/immobilization sanction. The language requiring the sanctions to be applied to an offender's vehicles should be changed to the vehicle used by the offender.

The transfer provisions for both the open container and repeat offender penalties are also problematic. Non-compliant states have a portion of their Surface Transportation Program, National Highway System and Interstate Maintenance funds transferred into the 402 program. They can then use the transferred funds for impaired driving countermeasures or activities eligible under the Hazard Elimination Program (HEP).

Many states have lessened the impact of the penalty by using the transferred funds to supplement current HEP funding. Instead of budgeting for new HEP funding, the transferred funds are used. In effect, some state DOTs have played an elaborate shell game with the transferred funds. As a result, the penalty transfers have not motivated states to enact the requisite legislation.

The administration of the transfers has also been very difficult. Since all of the transferred funds must be transferred into the state's 402 account, the SHSO is responsible for administering them, even if all the funds are ultimately used for HEP purposes. In other words, there is no mechanism to retransfer funds used for HEP purposes into the state's HEP account. As a result, the small, overworked SHSO is financially responsible for overseeing the expenditure of HEP funds over which they have no programmatic control.

GHSA recommends that, if the transfer penalties are continued, the transferred funds only be used for impaired driving countermeasures. This would eliminate the administrative difficulties and would create a stronger "incentive" for states to enact the requisite legislation.

Comments on the DOT Reauthorization Proposal

Under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA), the Department of Transportation has proposed a three-part consolidated behavioral highway safety grant program. The proposed program includes basic formula funds, performance incentive funds, and a strategic impaired driving program. The performance incentive funds will be further divided into three types of incentives. In addition, DOT has proposed a separate data grant program and a very small EMS grant program. In FY 2004, total funding would be at the same level as FY 2003 NHTSA grant funding.

GHSA is pleased about some aspects of the funding request but very disappointed about several others.

The Association is pleased that DOT supported the idea of grant consolidation. A single grant program with one application and one deadline should be much easier to administer. GHSA is also pleased that the Administration is proposing performance incentive grants and increased funding for states that enact primary safety belt laws. The Association also supports performance-based incentives, particularly for states that enact primary belt laws, and has incorporated that concept into its

own proposal. Clearly NHTSA heard and positively responded to the states' concerns in these areas.

GHSA strongly supports the proposed DOT data incentive grant program. The program funding level, the eligibility criteria, and the proposed use of grant funds are identical to those recommended by the Association.

GHSA supports the Section 151 (Title I) requirement that states coordinate their highway safety construction, behavioral and motor carrier grant programs and develop comprehensive, strategic highway safety goals. Future improvements in highway safety are not as likely unless states coordinate the disparate aspects of their highway safety programs.

GHSA supports the proposed funding for the crash causation study. As noted above, it has been about thirty years since such a study was conducted. If states are to improve driver and road user behavior, it is essential to know why crashes were caused. GHSA recommends, however, that the difference between the NHTSA crash causation study and the proposed FSHRP crash causation study need to be clarified and the studies coordinated.

GHSA also supports the proposed increased funding for the Section 403 program. However, it appears that most of the increase will be used for the crash causation study. Additional research resources must be directed to the NHTSA 403 program so that evaluation studies can be conducted on the effectiveness of a variety of safety countermeasures.

GHSA is extremely disappointed in the overall funding level for the behavioral safety grant programs. If safety is such a high priority for DOT, why wasn't behavioral safety grant funding increased more? How are the states to have an impact on the increasing number of fatalities and injuries without adequate funding? Why was the funding increase limited to the safety construction program? It appears that, once again, DOT's commitment to safety does not match its willingness to fund behavioral safety programs adequately. It will be no surprise if future years show further increases in motor vehicle-related fatalities and injuries.

GHSA finds the level of funding for the impaired driving program totally unacceptable. \$50 million is considerably less than has been spent on impaired driving under TEA-21 and far less than is needed to adequately address this growing problem. Further, we believe that the program is too narrowly focused on a few states where an intervention would have the biggest impact. Impaired driving is a problem in every state, yet the proposal would provide no funds for the remaining, "non-strategic" states.

It is apparent that the proposed impaired driving program will be implemented in the same manner as the 157 innovative program. Under that program, NHTSA set very restrictive conditions on the grants and completely micro-managed the way eligible states expend funds. States have found the program very onerous and do not wish to repeat the experience under the proposed impaired driving program. In our view, the proposed strategic impaired driving initiative is more appropriate as a Section 403 demonstration program than as a state incentive grant program. We urge Congress to *reject* this proposal in the next reauthorization.

The Administration is proposing funding for three types of incentives—for enacting primary belt laws, for improving safety belt use rates and for improving performance. Each of these incentives will have their own eligibility criteria and their own earmarked funding. We are concerned that the performance incentive program may be just as complex as the myriad of programs that are currently authorized under TEA-21. As noted previously, GHSA urges that the goal in the next reauthorization should be simplicity and consolidation.

In the proposed primary belt law incentive grants, GHSA is very troubled by the distinction between states that enacted their primary belt laws during TEA-21 and those that enact them under SAFETEA. The former states are eligible for 1/2 of their FY 2003 402 apportionments over a two-year period. The latter are eligible for 5 times their FY 2003 402 apportionments. GHSA believes that it can be very difficult for states to adopt primary belt laws, no matter when they enacted such laws, and that to make such a distinction is patently unfair. States that have primary belt laws should be rewarded for their superior performance and states wishing to enact such laws should be strongly encouraged to do so.

There are also some technical difficulties with the proposal. For one, if every eligible state enacted a primary belt law, there wouldn't be enough funding to give them the amount for which they would be eligible. If two or three large states enacted a primary belt law in one year, there wouldn't be enough funding in that year for any other states. States would have to wait one or more subsequent years, which may serve as a disincentive to states considering primary belt law passage.

SAFETEA also proposes that the performance incentive funds can be flexed into the safety construction program and vice versa. While GHSA members like funding

flexibility, we have some major reservations about the proposed flexibility provisions. GHSA believes that the flexibility provisions may result in fewer—potentially far fewer—funds for behavioral safety grant programs.

States can flex all \$100 million of their primary safety belt law incentive funds into the new Section 150 Highway Safety Improvement Program (HSIP). The intent of this flexibility is to encourage state Departments of Transportation to become involved in the passage of primary belt laws. While we support the involvement of state DOTs in the legislation, GHSA also believes that the language strongly encourages state DOTs to move funds into the HSIP in a kind of quid pro quo even though funding for safety construction is proposed to increase 54 percent over FY 2003 levels. According to the recent Government Accounting Office report, sixty-nine percent of the 34 states that were penalized in 2001 and 2002 used the money for HEP safety construction purposes and only thirty-one percent used the money for alcohol-related programs.

At the same time, GHSA believes that the flexibility provisions work *against* the passage of primary belt laws. DOT has proposed that, by FY 2005, states must enact primary belt laws or have 10 percent of their Section 150 funds transferred into the consolidated 402 program. However, states can flex 50 percent of their safety belt use rate incentives and 50 percent of their general performance incentive funds into the Section 150 program. As a result, the \$100 million loss of safety construction funds can be partially offset by flexing \$37.5 million of safety incentive funds into the HSIP. Hence, a state that fails to enact primary belt law legislation could have the impact mitigated to some extent by the flexibility provisions.

State DOTs can also flex 50 percent of the HSIP funds into the consolidated safety program. However, there is always a need for safety improvements to roadways, particularly for low cost improvements like rumble strips, traffic control devices, lighting and pavement markings. We see little possibility that the behavioral safety grant programs would be the beneficiaries of the flexibility provisions. SHSO experience with the open container and repeat offender penalties have shown that flexibility provisions often pit one state agency against another. The agency with the most political clout usually determines how the penalty funds will be used. Hence, GHSA believes that the flexibility provisions will result in *less* funding for behavioral safety programs, not more. Consequently, we urge Congress to *reject* the proposed flexibility language and simply allow each safety program to be used for the purposes authorized.

This concludes GHSA's prepared statement on the reauthorization of safety programs. Thank you for the opportunity to present our views and recommendations on programs of utmost importance to its members. We look forward to working with the members and staff of the Committee as they draft reauthorization language in the coming months. Thank you again.

GHSA also submitted "Federal Behavioral Highway Safety Grant Program Details, April 2003." This document can be found at <http://www.gpo.gov/fdsys/browse/committeecong.action?jsessionid=15yvRplJ1LTTzVzL8GxgW5D2yGP3BPNzQycBFJv818fP2sl5xRJ9!-1031405584!1936429658?collection=CHRG&committee=commerce&chamber=senate&congressminus=112&ycord=0>.

Senator SMITH. Thank you very much, Ms. Swanson.
Mr. Strassberger.

**STATEMENT OF ROBERT STRASSBERGER, VICE PRESIDENT,
VEHICLE SAFETY, ALLIANCE OF AUTOMOBILE
MANUFACTURERS; ON BEHALF OF JOSEPHINE COOPER,
PRESIDENT AND CHIEF EXECUTIVE OFFICER**

Mr. STRASSBERGER. Thank you, Mr. Chairman. My name is Robert Strassberger, and I am Vice President of Vehicle Safety of the Alliance of Automobile Manufacturers.

Preliminary data for 2002 show that 42,850 people lost their lives last year on U.S. highways, and almost 3 million were injured. Tragically, 59 percent of vehicle occupants killed were not restrained by safety belts or child safety seats. Alcohol-related fatalities also increased for the third consecutive year and account for 42 percent of all fatalities. The number of overall fatalities is no

longer declining. This is unacceptable. As a nation we simply must do better.

The single most effective way to reduce traffic fatalities and serious injuries immediately is to increase the use of safety belts and child safety seats. Primary enforcement of safety belt use laws results in higher safety belt usage. States with primary enforcement laws have an average of 80 percent belt usage compared to just 69 percent in states with secondary enforcement laws.

The Administration has requested funding for incentives for states passing primary enforcement laws. Congress should approve this proposal.

Impaired driving is also a problem and one that is getting worse. While there was progress in the last two decades, impaired driving is once again on the rise. The administration's recommendation of \$50 million is far less than the current funding levels and is not adequate. Congress should provide more.

The Alliance believes that if we are to continue to make progress in reducing traffic fatalities and injuries, it is critical that future public policy decisions be data-driven, supported by scientifically evidence, and demonstrate the potential for effective safety benefits without adverse side effects.

NHTSA's two primary crash database programs, NASS and FARS, provide crucial information to safety planners and vehicle design engineers. The Alliance strongly supports upgrading crash data systems and urges Congress to provide appropriate levels of funding. In addition to adequate funding for NASS and FARS, the Alliance believes it is important for NHTSA to have the resources necessary to conduct a comprehensive study of crash causation, similar to the multiyear Indiana Tri-Level Study that was completed 25 years ago. The Alliance strongly supports NHTSA's Fiscal Year 2004 budget request for \$10 million for this purpose.

Advancing motor vehicle safety remains a significant public health challenge and the Alliance is pursuing a number of safety initiatives. The Alliance and the Insurance Institute for Highway Safety are developing recommendations that auto companies could implement voluntarily both in the short-term and the long-term to enhance vehicle-to-vehicle crash compatibility. These steps will improve compatibility in both front and side crashes in which a light truck is the striking vehicle. We anticipate delivering to NHTSA final short-term recommendations by late summer or early fall.

Another Alliance initiative is aimed at reducing the frequency and consequences of rollover. The Alliance agrees that rollovers represent a significant safety challenge that warrants action. The Alliance efforts include developing a vehicle handling test procedure that will assess the performance of electronic stability control systems and other advanced handling systems. We are also examining roof strength in rollover crashes and we expect to make recommendations in the near future. We are also working to develop test procedures intended to reduce occupant ejections in rollovers.

These efforts to develop voluntary standards for crash compatibility and rollover, when combined with an industry commitment to design vehicles in accordance with them is following a model for responsible industry action that has proven to be an effective way

to bring significant safety improvements into the fleet faster than has been historically possible through regulation.

Mr. Chairman, that concludes my statement. I would be happy to answer any questions.

[The prepared statement of Ms. Cooper follows:]

PREPARED STATEMENT OF JOSEPHINE COOPER, PRESIDENT,
ALLIANCE OF AUTOMOBILE MANUFACTURERS

Thank You Mr. Chairman. My name is Josephine Cooper and I am President of the Alliance of Automobile Manufacturers. I am pleased to be afforded the opportunity to offer the views of the Alliance at this important hearing. The Alliance of Automobile Manufacturers (Alliance) is a trade association of 10 car and light truck manufacturers who account for more than 90 percent of U.S. vehicle sales. Alliance member companies, include BMW Group, DaimlerChrysler, Ford Motor Company, General Motors, Mazda, Mitsubishi Motors, Nissan, Porsche, Toyota and Volkswagen, employing more than 620,000 Americans at 250 facilities in 35 states.

Significant Progress Has Been Made To Reduce Fatalities and Injuries From Motor Vehicle Crashes, But Challenges Remain

Over the past 20 years significant progress has been made in reducing the traffic fatality rate. In 1981, the number of fatalities per 100 million vehicle miles traveled stood at 3.17. By 2001, this rate had been driven down by 52 percent to 1.51 fatalities per 100 million vehicle miles traveled. Indeed, when compared to 1991, in 2001 the fatality rate had dropped by 21 percent, indicating that real progress has been made. The level of competitiveness among automakers, which key industry observers have described as "brutal," has helped to accelerate the introduction of safety features ahead of regulation further aiding in the progress made. See *Attachment 1*. According to the J. D. Power and Associates 2002 U.S. Automotive Emerging Technologies study, 9 of the top 10 features most desired by consumers in their next new vehicle are designed to enhance vehicle or occupant safety.

Despite the progress made, however, preliminary data show that 42,850 people lost their lives on U.S. highways in 2002 and almost 3 million were injured. Tragically, 59 percent of vehicle occupants killed in crashes were not restrained by safety belts or child safety seats. Alcohol-related fatalities increased for the third consecutive year and accounted for 42 percent of all fatalities. The fatality rate may no longer be declining. This is unacceptable. As a nation, we simply must do better.

The Alliance and our members are constantly striving to enhance motor vehicle safety. And, we continue to make progress. Each new model year brings safety improvements in vehicles of all sizes and types. But, as the General Accounting Office recently reaffirmed, vehicle factors contribute less often to crashes than do human or roadway environment factors.¹ We will never fully realize the potential benefits of vehicle safety technologies until we get vehicle occupants properly restrained and impaired drivers off the road. That is why reauthorization and adequate funding of the National Highway Traffic Safety Administration's (NHTSA's) highway safety programs is so important.

Increased Safety Belt Usage and Preventing Impaired Driving Are Needed Today To Prevent Needless Fatalities and Injuries

The single most effective way to reduce traffic fatalities and serious injuries in the short term is to increase the use of occupant restraint systems, safety belts and child safety seats. If the United States could increase its safety belt usage rate from the current 75 percent to 92 percent (the same usage rate as in Canada) it is estimated that another 4,500 lives would be saved and countless injuries would be avoided. Members of the Alliance have a long and proud record in supporting increased safety belt usage beginning in the mid 1980s with funding for Traffic Safety Now, a safety belt advocacy group lobbying state governments for the passage of mandatory safety belt use laws to participation in and funding of the Airbag & Seat Belt Safety Campaign (Campaign). The Campaign is housed in the National Safety Council and principally funded by the voluntary contributions of motor vehicle manufacturers. The effectiveness of the Campaign is reflected in the increase in belt use from 61 percent, when the Campaign was formed in 1996, to today, with belt use now at 75 percent.

¹ "Highway Safety—Research Continues on a Variety of Factors That Contribute to Motor Vehicle Crashes." United States General Accounting Office, GAO-03-436, March 2003.

This 14 percentage point increase in belt use is largely due to high visibility enforcement Mobilizations coordinated by the Campaign in cooperation with NHTSA, state highway safety offices and law enforcement agencies in all fifty states. We are currently in the midst of the largest Mobilization ever with more than 12,500 law enforcement agencies providing stepped up enforcement and close to \$25 million in paid advertising to augment the enforcement effort. Funding for the enforcement ads, both national and state, comes from funds earmarked by Congress for this purpose. High visibility enforcement of safety belt laws has been extensively tested in more than twenty states. It has consistently achieved dramatic increases in safety belt use. Although the Administration has not requested funds for the paid advertising that has proven to be a vital component of this effective program, we believe that it is important for Congress to continue to provide this funding.

Primary enforcement safety belt use laws are significantly correlated with higher safety belt usage levels. States with primary enforcement laws have an average of 80 percent belt usage, compared to 69 percent in states having secondary enforcement laws. Currently, only 19 jurisdictions have primary safety belt laws. While the Campaign, through its lobbying efforts, has contributed to getting primary enforcement legislation enacted in several states, progress has been difficult to achieve. The Administration has requested significant funding for incentives to states passing primary enforcement laws. We believe this proposal has merit and should be approved by Congress.

Impaired driving is also a significant highway safety problem and one that is getting worse. While substantial progress in reducing impaired driving was made in the last two decades, impaired driving is once again on the rise. Repeat offenders are disproportionately involved in fatal crashes. Congress should provide funding beyond the level proposed by the Administration to enable states to address this deadly problem. The Administration recommendation of \$50 million is far less than current funding levels and is inadequate.

In addition to the priority areas of increasing safety belt use and reducing impaired driving, Congress needs to provide adequate funding for the Section 402 State and Community Highway Safety Program. The Administration's proposal wisely consolidates several smaller programs into Section 402, but Congress should consider providing additional resources.

Comprehensive and Current Data Is Necessary To Make Insightful and Sound Public Policy Decisions

NHTSA's two key traffic crash database programs, the National Automotive Sampling System (NASS) and the Fatality Analysis Reporting System (FARS) provide crucial information to safety planners and vehicle design engineers. The NASS program, in particular, has been chronically under-funded. On October 17, 2002, the Alliance and various other safety groups sent a letter to NHTSA Administrator Dr. Jeffrey Runge outlining the importance of sound crash and injury data. The Alliance emphasized the need for additional funds for NASS in order to effectively evaluate the effectiveness of both behavioral and vehicular safety measures. See *Attachment 2*.

The Administration has proposed substantial funding to upgrade state traffic records systems. Improved state record systems can help improve the quality of FARS data and assist states in establishing safety program priorities. The Alliance strongly supports upgrading state and Federal crash data systems and urges Congress to provide appropriate levels of funding for them. The Alliance believes this funding is critical because future NHTSA rulemakings should be data-driven, supported by scientifically sound evidence, and demonstrate the potential for effective safety benefits without undesired side effects.

The Alliance also sponsors a significant amount of safety research that is shared with the safety community. The Alliance is sponsoring a program to collect real world crash data on the performance of depowered and advanced air bags at three sites around the U.S. (Dade County, Florida, Dallas County, Texas, and Chilton, Coosa, St. Clair, Talledega, and Shelby Counties in Alabama). This program adds valuable information about air bag performance to the extensive crash data already being collected by NHTSA through NASS. The Alliance is committed to funding this program that will run through 2005. The current Alliance commitment for the advanced air bag research is \$4.5 million over 4 years. The Alliance project will observe all the NASS data collection protocols so that the Alliance funded cases can be compared with, and evaluated consistently with, other cases in the NASS dataset.

In addition to adequate funding for NASS, the Alliance believes it important for NHTSA to have the resources necessary to conduct a comprehensive study of crash causation similar to the multi-year "Indiana Tri-Level Study" that was completed

25 years ago. Researchers at Indiana University Bloomington's Institute for Research in Public Safety conducted the *Tri-Level Study of the Causes of Traffic Accidents* from 1972 through 1977. According to NHTSA officials, the Indiana Tri-Level study has been the only study in the last 30 years to collect in-depth, on-scene crash causation data. The National Highway Traffic Safety Administration relies on it today because other NHTSA data is collected from police crash reports or collected days or weeks after the crash, making it difficult to obtain causation data. Significant advancements in vehicle safety technology and design have occurred since then, making this study rather obsolete as a baseline on which to base substantial regulatory decisions. For example, the Tri-Level study, studied crashes in which nearly all tires were bias-ply, rather than the radial tires that are prevalent today. Yet NHTSA cited data from this study in support of a portion of its decision on tire pressure monitoring system that will be used in conjunction with radial tires. See *Attachment 3*. In addition, traffic patterns, numbers and types of vehicles in use, on-board technologies and lifestyles have changed dramatically in the last 30 years.

Therefore, the Alliance strongly supports the National Highway Traffic Safety Administration's FY 2004 budget request for \$10 million so that NHTSA can effectively update their crash causation data. An updated study would help guide and enlighten public policy aimed at reducing the frequency of traffic crashes, injuries, and fatalities. This is a crucial step toward improving the quality of data available to inform sound regulatory decision-making at NHTSA.

Alliance Members Are Aggressively Pursuing Safety Advancements, Collectively and Individually

Advancing motor vehicle safety remains a significant public health challenge—one that automakers are addressing daily, both individually and collectively. The Alliance is pursuing a number of initiatives to enhance safety. We have redoubled and unified our activities to collectively address light truck-to-car collision compatibility and vehicle rollover. On February 11–12, 2003, the Alliance of Automobile Manufacturers and the Insurance Institute for Highway Safety sponsored an international meeting on enhancing vehicle-to-vehicle crash compatibility. On February 13, 2003, the Alliance and IIHS sent NHTSA Administrator Runge a letter summarizing the results of this meeting, and indicating the industry planned to develop recommendations that auto companies could take to enhance crash compatibility. These steps will enhance crash compatibility in both front-to-front and front-to-side crashes in which a light truck is the striking vehicle.

The industry promptly formed two technical working groups of experts: one on front-to-side crashes and one on front-to-front crashes. These groups have been working continuously since their establishment to develop recommendations for appropriate short and longer term actions. On March 10, 2003, the Alliance and IIHS sent Administrator Runge a letter indicating that we anticipate delivering to NHTSA final short-term recommendations by late Summer or early Fall. While our work is still in progress, we remain on track to meet this commitment.

For the North American market, front-to-side crashes where the striking vehicle is a light truck or SUV, represent a significant compatibility challenge. We are placing a high priority on enhancing the protection of occupants inside vehicles struck in the side. Our immediate efforts are focused on developing recommendations that will lead to enhanced head protection of occupants in struck vehicles. We expect our efforts to lead to measures that auto manufacturers can incorporate in their vehicles. Concurrently, evaluation criteria will be established to drive improvements in car side structures to reduce side impact intrusion and provide for additional absorption of crash energy.

With regard to front-to-front crashes, we anticipate reaching agreement on specific recommendations to enhance alignment of front-end energy absorbing structures of vehicles. Manufacturers have been working to improve this architectural feature by modifying truck frames. The voluntary standard will govern structural alignment for the entire light-duty vehicle fleet and provide for an industry wide solution. In addition, through research to be undertaken, we expect to develop sophisticated test procedures for assessing the forces, and the distribution of these forces, which light trucks may impose on cars in frontal crashes. These procedures should lead to more comprehensive approaches to measuring and controlling these forces. We also expect to develop state-of-the-art test procedures for measuring and controlling the frontal stiffness characteristics of passenger cars and light trucks.

These efforts to develop voluntary standards for crash compatibility and rollover, when combined with an industry commitment to design vehicles in accordance with them, is following a model for responsible industry action that has proven to be a very effective way to bring significant safety improvements into the fleet faster than

has been historically possible through regulation. The voluntary standards process also has the flexibility to produce rapid modifications should the need arise.

The best way to illustrate the benefits for such an approach is to examine the recent development of the *Recommended Procedures for Evaluating Occupant Injury Risk From Deploying Side Airbags* finalized in August 2000. In response to concerns about potential injury risk to out-of-position (OOP) women and children from deploying side airbags, the Alliance, the Association of International Automobile Manufacturers (AIAM), the Automotive Occupant Restraints Council (AORC), and the Insurance Institute for Highway Safety (IIHS) used a joint working group to develop test procedures with injury criteria and limits to ensure that the risk of injury to OOP occupants from deploying side airbags would be very limited.

After a little over a year of intensive effort, the working group developed a draft set of procedures. This draft was presented in a public meeting on June 22, 2000. Comments were collected and the finalized procedures were presented to NHTSA on August 8, 2000. Now, just 2 model years later, 60 percent of Alliance member company side airbags have been designed in accordance with the August 8, 2000 *Recommended Procedures*. More importantly, the field performance of side air bags remains positive.

These *Procedures* and public commitment were also used by Transport Canada as the basis for a Memorandum of Understanding (MOU) between automobile manufacturers and the Canadian government.

Another Alliance initiative is assessing opportunities which may further reduce the frequency and consequences of rollover. The Alliance agrees that rollovers represent a significant safety challenge that warrants attention and action. In releasing the preliminary statistics for 2002, NHTSA stated that, "*Fatalities in rollover crashes involving sport utility vehicles and pickup trucks accounted for 53 percent of the increase in traffic deaths.*" NHTSA did not state, however, that an increase in passenger car rollover fatalities accounted for 25 percent of the increase in traffic fatalities. Indeed, rollover fatalities occurring with passenger cars, SUVs, and pickups all contributed roughly equally to the increase observed. In fact, the increase in number of passenger car rollover fatalities was nearly 8 times higher than might otherwise have been forecasted from the growth in the number of registered passenger cars in 2002, over 2001.

Consequently, Alliance efforts to reduce the frequency and consequences of rollover involves passenger cars as well as SUVs, vans, and pickup trucks. Our efforts include developing a handling test procedure or recommended practice that will focus on an assessment of the performance of electronic stability control systems and other advanced handling enhancement devices. A typical rollover is one in which the driver becomes inattentive or distracted, loses control of the vehicle, and then strikes something that trips the vehicle causing it to roll. Electronic stability control systems are designed to help drivers to keep out of trouble in the first place. However, should a rollover occur, the Alliance is assessing opportunities to enhance rollover occupant protection. We are assessing the current state of knowledge on roof/pillar deformation during rollover crashes, and will make recommendations as to whether new performance criteria and/or test procedures would further reduce the risk of injury in vehicle rollover crashes. We are also working to determine the feasibility of developing test procedures to assess the performance of countermeasures designed to further reduce the risk of occupant ejection in rollover crashes.

The Potential Benefits of Vehicle Safety Technologies Cannot Be Fully Realized Until Vehicle Occupants Are Properly Restrained and Impaired Drivers Are Off The Road

Motor vehicle safety is a shared responsibility among government, consumers and vehicle manufacturers. Auto manufacturers are more committed than ever to developing advanced safety technologies to reduce fatalities and injuries resulting from motor vehicle crashes. But as a nation, we will never fully realize the potential benefits of vehicle safety technologies until we get vehicle occupants properly restrained and impaired drivers off the road. In this regard, Congress has a unique role to play by:

- Enacting incentives for states that pass primary enforcement safety belt laws and ensuring high visibility enforcement of these laws by providing adequate funding for paid advertising and Section 402 State and Community Highway Safety Programs;
- Providing funding beyond the level proposed to address the deadly problem of impaired driving; and

- Authorizing adequate funding for a modern, comprehensive study of crash causation and to update state and Federal crash data systems.

ATTACHMENT 1

“Voluntarily Installed Safety Devices”

A partial list of voluntarily installed advanced safety devices (w/o or prior to regulation)

Crash Avoidance Advances

Tire/suspension optimization
 Automatic brake assist
 Electronic stability controls to help drivers maintain vehicle control in emergency maneuvers
 Anti-lock brakes
 Traction control
 Obstacle warning indicators
Active body control
 Intelligent cruise control
 Convenience controls on steering wheel to minimize driver distraction
 Automatic obstacle detection for sliding doors on minivans
 Head-up displays
 Child-proof door locks
 Automatic speed-sensitive door locks

Vision

Automatic dimming inside mirrors to reduce headlamp glare
 Heated exterior mirrors for quick deicing
 Rear defrost systems
 Headlamp wiper/washers
 Automatic-on headlamps
 Automatic-on headlamps when wipers are used
 Infinitely variable wiper (only 2 req'd by regulation)
 Night vision enhancements
 Advance lighting systems
 Right side mirrors

Crashworthiness Advances

Side air bags for chest protection
 Side air bags for head protection that reduce ejection
 Rollover triggered side/curtain air bags
 Advanced air bags (*e.g.*, dual stage inflators) several years in advance of regulatory requirements
 Safety belt pre-tensioners
 Rear center seat lap/shoulder belts
 Load-limiting safety belts to reduce chest injuries
 Safety belt pre-tensioners Improved belt warning indicators
 Rear seat head restraints Integrated child seats
 Anti-whiplash seats
 Breakaway mirrors for pedestrian protection

Post Crash

Automatic notification to emergency providers during air bag deployment

October 17, 2002

Hon. JEFFREY W. RUNGE, M.D.,
Administrator,
National Highway Traffic Safety Administration,
Washington, DC.

RE: NATIONAL AUTOMOTIVE SAMPLING SYSTEM: INCREASED FUNDING

Dear Dr. Runge:

Sound crash and injury data are critical components needed for advanced vehicle safety design and for both initiating and evaluating countermeasures for improving highway safety. The National Highway Traffic Safety Administration's (NHTSA) Fatality Analysis Reporting System provides comprehensive data on people dying in motor vehicle crashes throughout the United States. These data have enjoyed widespread use in the evaluation of many motor vehicle safety countermeasures and their effectiveness in reducing motor vehicle death. NHTSA's National Automotive Sampling System Crashworthiness Data System (NASS/CDS) is an essential resource that provides the agency, researchers, vehicle manufacturers—indeed the entire safety community—with a detailed crash and injury causation database suitable for identifying traffic safety issues, establishing priorities, assisting in the design of future countermeasures and for evaluating existing countermeasures.

The NASS/CDS provides in-depth crash investigations of a representative sample of police-reported tow-away crashes throughout the United States, so data can be weighted to provide a nationwide estimate of crashes of all severities according to the severity of injuries. Furthermore, researchers can examine the detailed crash investigations in depth to learn about crash characteristics and injury causation focusing on subsets of the data. For example, such investigations have proven to be of critical importance in the understanding of airbag performance—the conditions under which airbags save lives, but also when they contribute to occupant injury.

The application of sound science to improve traffic safety requires that real world data or field data be used wherever possible. The continuation of vehicle and highway safety improvements requires a solid factual basis. However, the essence of such investigations is timeliness. As the recent experience with frontal airbags has taught us, we need to understand as soon as possible how new vehicle technologies, such as airbags, are performing in the real world. And with new technologies being introduced at such a fast pace, it is now more important than ever to understand how these technologies are performing in the real world.

The agency's NASS/CDS database is one of the most comprehensive databases in the world to look in depth at the causes of motor vehicle injury. However, we are concerned that the budget for NASS has not kept pace with either the agency's informational needs or inflation. The NASS program has been constrained by either flat or reduced funding at a time when technological developments (*e.g.*, advanced frontal and side air bags, telematics) and occupant behavior (from increased seat belt use to booster seat installations) are changing. We believe it is important to ensure that NHTSA continues to have the ability to evaluate actual field performance on a national basis.

Therefore, NASS must have the resources necessary to collect high-quality, real-world data by conducting investigations at the full complement of sites that will provide statistically valid, nationally representative data on a timely basis. The NASS reorganization of the mid 1980s called for 36 Primary Sampling Units. Currently, NASS has the resources to conduct investigations at only 24 sites. The effectiveness of NASS has also been subject to inflationary increases in operating costs of about 3–5 percent per year, which have been offset by reducing field staff. This has resulted in fewer cases reported from the 24 sites.

From the original projections of 7000 cases annually, NASS has been reduced to providing only about 4500 cases annually across the spectrum of crash types and severities. The result is that there are often too few cases of serious injury to make an informed decision about the sources and mechanisms of injury in motor vehicle crashes (for example, in side impacts, or in crashes involving children) without having to include data from many years of data collection. This blunts our ability to look at current issues in real time. We believe NASS should be funded at a level that will restore NASS to its design scope to ensure critical “real-world” data can be collected at a sufficient number of sites to produce the statistically valid, nationally representative sample originally intended. Initially, the NASS design called for 50 active sites.

Thus, we believe it is critical that the proposed NHTSA Fiscal Year 2004 budget include a request to fully fund NASS, so that our ability to evaluate the effectiveness of both behavioral and vehicular safety measures is enhanced. We stand ready to support you in this most important endeavor.

Sincerely,

Josephine S. Cooper
President and CEO
Alliance of Automobile Manufacturers,
Inc.
Timothy C. MacCarthy
President and CEO
Association of International Automobile
Manufacturers, Inc.
Heather Paul
Executive Director
National Safe Kids
Charles A. Hurley
Transportation Safety Group
National Safety Council

Phil Haseltine
President
Automotive Coalition for Traffic Safety
Yvonne McBride
President Governors
Highway Safety Association
Susan G. Pikrallidas
Vice President of Public Affairs
AAA
Susan Ferguson
Senior Vice President, Research
Insurance Institute for Highway Safety

ATTACHMENT 3

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, DC, June 28, 2002

Hon. JEFFREY W. RUNGE, M.D.,
Administrator,
National Highway Traffic Safety Administration,
Washington, DC 20590

Dear Dr. Runge:

I am writing to thank you and your staff for making significant improvements in the Economic Assessment of the recently adopted final rule requiring tire pressure monitoring systems for new motor vehicles. I would also like to suggest some longer-term research directions that may strengthen the scientific basis of future vehicle safety rulemakings.

First, OIRA appreciates the significant improvements NHTSA made in the regulatory analysis. Those improvements include (1) an explicit cost-effectiveness analysis of a 1-tire standard, including a comparison of costs and safety impacts compared to a 4-tire standard, (2) a significant discussion of the ABS safety issue, including a careful summary of the real-world crash data concerning the safety impacts of ABS, and (3) a qualitative discussion of some of the technical uncertainties in the agency's estimates of the safety benefits that could be expected from various tire-pressure monitoring systems.

Recognizing the limitations in current knowledge, we are eager to work with NHTSA between now and March of 2005, when more information will be available and a final decision will be made on this matter for model years 2007 and later. We are pleased that NHTSA agrees upon the need to analyze all options and information about the safety impacts of ABS, regardless of whether such information is judged to be relevant to this rulemaking or a separate rulemaking. We believe that further improvements in NHTSA's economic assessment of the tire-pressure monitoring issue will result from the collection and development of additional information between now and March of 2005. OIRA wants to work closely with NHTSA to develop analysis sufficient to inform and support NHTSA's ultimate decision in this important rulemaking.

Second, in the course of reviewing this particular rule, OIRA encountered a research gap that, if filled, would provide a stronger technical foundation for future vehicle- and tire-related rulemakings at NHTSA. The 1977 "Indiana Tri-Level Study" was a seminal effort to quantify the relative frequency of different causes of crashes. However, much has changed in the past 25 years. For example, minivans and SUVs were virtually nonexistent in the mid-70s, as were front-wheel drive vehicles and radial tires. These changes raise questions about the continuing validity of the Indiana Tri-Level Study's findings about the relative frequency of different

causes of crashes. However, there has been no subsequent comprehensive study of crash causation.

We know that NHTSA is now responsible for conducting a crash causation study for large trucks and that you are exploring the possibility of building on that work to do a broader crash causation study. Such a study would allow us in the government to better understand the safety payoffs and costs associated with initiatives in the area of crash avoidance, such as enhanced tires, braking, and handling performance. It would also give us a stronger basis for setting priorities in this area. My staff and I would like to meet with you and your staff to discuss the potential value and costs of a comprehensive crash causation study.

We thank you again for being responsive to OIRA's concerns and we look forward to discussions with you regarding both research gaps and the analysis necessary to support future rulemakings.

Sincerely,

JOHN D. GRAHAM, Ph.D.,
Administrator,

Office of Information and Regulatory Affairs.

Senator SMITH. Thank you very much.
Mr. Berman.

**STATEMENT OF RICHARD BERMAN, LEGISLATIVE COUNSEL,
AMERICAN BEVERAGE LICENSEES AND THE AMERICAN
BEVERAGE INSTITUTE**

Mr. BERMAN. Yes, sir, thank you, Senator. Like the speakers before me, sir, we believe the Nation must improve the way we fund and enforce traffic safety programs, including how we address drunk driving problems. The retailers that I represent, as well as the producer industries, are committed to responsible beverage service. We have collectively spent hundreds of millions of dollars to educate the public and train our employees on the responsible use of adult beverages, and we are much more than commentators. We have been on the front lines in stopping product abuse and underage purchases.

Our first issue today starts with the question of the relationship between the states and the Federal Government when it comes to funding effective traffic safety programs. It's our belief that State governments should not be subjected to financial blackmail because they do not endorse the Federal recommendations on how to combat drunk driving.

This is not an industry position exclusively but one that was taken by numerous traffic safety groups during the last two debates over highway funding, including the National Governors Association, the Council of State Governments, the League of Cities, the National Association of Counties, AAA, the National Association of Governors Highway Safety Representatives, and many others. It is a position shared by President Bush and Secretary Mineta, who said before another Senate Committee this week that their current proposal is designed to "enhance the capacity and flexibility of states to use Federal grants and their own funds to improve highway safety."

In this reauthorization we should end the pattern of mandating traffic safety programs that are driven by political agendas and return to a fully incentive-based program.

Our industry is further concerned about how we will find effective solutions to the problem of drunk driving in the face of continually shifting semantics. In many ways how we, including the Gov-

ernment, the media, special interests and others talk about this issue prevents us from reaching consensus.

Consider that the term “alcohol-related accidents” has been translated by interest groups to mean drunk driving. That is not the case, as many alcohol-related incidents are in no way alcohol-caused. And due to NHTSA’s system of imputation, many accidents that don’t even show the presence of alcohol are still labeled alcohol-related. Further, all the crashes are lumped into one group, implying that we have a much greater problem than we really do. That is not to minimize the drunk driving problems, but it is to get the focus of the solution where it belongs, on repeat offenders and product abusers. This point was driven home in a recent Los Angeles Times story that we’ve attached to our testimony.

One year ago a representative of the National Sleep Foundation testified there are many highway deaths miscounted as alcohol-related that are in fact caused by drowsy drivers. Our question is, why has NHTSA failed to promote purchase restrictions on over-powered cars by individuals with long lists of speeding violations, or have done something about the drowsy driver situation.

New potential impairments abound. We hear about cell phones, onboard electronics in cars, older drivers whose hearing, reaction times and vision are all impaired. And yet, most of the impairment conversation that takes place in this town is continually over whether or not someone has had an adult beverage. Traffic safety funding should cover all safety programs to reduce highway deaths, not just those focused on alcohol-related problems.

We have agreed with MADD in the past that high BAC drivers and repeat offenders are problems that need to be addressed. Too much attention and time has been spent on fighting for .08 BAC laws in this town that have minimal value, and I urge you to refer to the two charts that I have also attached to my testimony that compares what has happened in the .08 states and the various states that have been spoken about here today that have so far refused to adopt that language.

Before we launch into another round of legislative initiatives, we should cautiously review how we spend taxpayer dollars. There are ideas proposed, including increased use of random roadblocks that should be contemplated after a serious review of their effectiveness, a cost-benefit analysis, and a look at the reported abuses and intrusions on privacy that may be posed by increased use of enforcement measures that are not preceded by probable cause.

I will allow the rest of my statement to be admitted into the record, sir, but I would like to just read, when it comes to roadblocks, one quote that I found this afternoon just before coming up here. It is by the Chief Justice of the Oregon Supreme Court, it would be no surprise that I looked for that one.

And in terms of roadblocks the Chief Justice has said, objecting to this use of random roadblocks: What has occurred is quite simply the seizure of a car and its driver without any probable cause in the hope that sometime during the ensuing detention, evidence of a crime will be discovered.

This is probably the biggest problem that we’re going to be facing in the debates coming up, this increased rhetoric about let’s get random roadblocks out there and start arresting people, start

frightening people, start taking away people's individual privacy. And I hope in the deliberations that ensue after these hearings, that this becomes a focus of people who are seeking to protect privacy, not to see that it's given up.

[The prepared statement of Mr. Berman follows:]

PREPARED STATEMENT OF RICHARD BERMAN, LEGISLATIVE COUNSEL, AMERICAN BEVERAGE LICENSEES AND THE AMERICAN BEVERAGE INSTITUTE

Good afternoon. Thank you for the opportunity to testify before this committee on this issue of funding the National Highway Traffic Safety Administration. I am honored to represent the community of adult beverage retailers.¹

Like the speakers before me, I believe the Nation should improve the way we fund and enforce traffic safety programs including how we address drunk driving problems. Retailers—as well as the producer industries—are committed to responsible beverage service. We have collectively spent hundreds of millions of dollars to educate the public and train our employees on the responsible use of adult beverages. We are much more than commentators, we have been on the front lines in stopping product abuse and underage purchases. We want to offer our perspective on the effective and efficient ways to fund drunk driving countermeasures.

Our first issue starts with a question of the relationship between states and the Federal government when it comes to funding effective traffic safety programs. The Federal government is becoming more aggressive about using “mandates” or “blackmail” to force states, governors, legislators and highway safety officials to accept Washington’s view of what works. In ever more instances, states are being penalized even when they have above-average safety records, because they do not adopt federally approved laws. With few exceptions (*e.g.*, the minimum drinking age, requiring helmet use for motorcycle riders and a mandated national speed limit, which was rescinded), highway safety countermeasures were funded on incentives.

State governments should not be subjected to financial blackmail because they do not endorse the Federal recommendations on how to combat drunk driving. This is not an industry position, but one that was taken by numerous traffic safety groups² during the last two debates over highway funding. It is a position shared by President Bush and Secretary Mineta, who said before another Senate committee this week that their current proposal is designed to “enhance the capacity and flexibility of states to use Federal grants and their own funds to improve highway safety.”³ In this reauthorization, we should end the pattern of mandating traffic safety programs driven by political agendas and return to a fully incentive-based program.

Our industry is further concerned about how we will find effective solutions to the problem of drunk driving in the face of continually shifting semantics. In many ways, how we (the government, the media, special interests and others) talk about this issue prevents us from reaching consensus. Consider that the term “alcohol-related” accidents has been translated by interest groups to mean “drunk driving.” That is not the case, as many alcohol-related incidents are in no way “alcohol-caused.” And, due to NHTSA’s system of imputation, many accidents that don’t even show the presence of alcohol are still labeled alcohol-related. Further all crashes are lumped into one group, implying that we have a much greater problem that we really do. That is not to minimize the drunk driving problems, but it is to get the focus of the solution where it belongs, on repeat offenders and product abusers. This point was driven home in a recent *LA Times* story that broke down the 17,448 deaths in 2001 to “5,000 sober victims killed by legally drunk drivers.”⁴

¹ American Beverage Licensees (an association of taverns, package stores and restaurants) and the American Beverage Institute (an association of national chain and single unit restaurants).

² These traffic safety groups include the National Governors’ Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the National Association of Counties, the American Automobile Association, the American Association of State Highway and Transportation Officials, the American Traffic Safety Services Association, the International Association of Chiefs of Police and the National Association of Governors’ Highway Safety Representatives.

³ Statement of Norman Y. Mineta, Secretary of Transportation, before the Committee on Transportation and Infrastructure, Committee on the Environment and Public Works, United States Senate, “Reauthorization of Surface Transportation Programs,” 20 May 2003.

⁴ “A breakdown of the 17,448 deaths includes:

- About 2,500 to 3,500 crash deaths in which no driver was legally drunk but alcohol was detected.
- 1,770 deaths involved drunk pedestrians killed when they walked in front of sober drivers.

One year ago, a representative of the National Sleep Foundation testified⁵ there are many highway deaths miscounted as alcohol-related that are in fact caused by drowsy drivers. And why has NHTSA failed to promote purchase restrictions on overpowered cars by individuals with long lists of speeding violations. New potential “impairments” abound—from cell-phones to on-board electronics. Traffic safety funding should cover all safety programs to reduce highway deaths, not just those focused on alcohol-related problems.

Because we use the broadest definition of the drunk driving problem and treat alcohol as the only significant impairment on our Nation’s highways, no one should be surprised that we have a penalty system that is also disproportional. Most states punish a .08 percent BAC drinker with the same set of penalties as an extreme .28 percent BAC drinker. The situation is analogous to punishing an individual driving five miles over the speed limit with the same penalty as someone going 50 miles over the posted restrictions. Hard-core drunk drivers are not responsive to public appeals. Programs designed specifically to address *their* drinking patterns should be where we focus the most time, the most research, resources and political capital instead of developing programs suited to targeting casual social drinkers who are not a part of the problem.

We have agreed with MADD in the past that these high BAC drivers and repeat offenders are problems that need to be addressed. Too much attention and time has been spent on fighting for .08 percent BAC laws that have minimal value,⁶ I testified before the House Judiciary Subcommittee on Crime and Criminal Justice and proposed the same concept of tailoring the level of punishment to the level of the crime: “. . . a prosecution strategy with a graduated series of penalties in the form of fines, license revocation and imprisonment. The magnitude of the penalty would reflect the degree of infractions, where 0.20 drivers *even on their first offense* suffer a more exacting penalty than the marginal offender, with a graduated increase according to BAC levels and multiplicity of offenses.”⁷ And developing a high-BAC/repeat offender *initiative* program would be the best way to achieve improvements in these areas.

While we advocate aggressively implementing more effective programs, we want to focus on the word “effective.” Before we launch into another round of legislative initiatives, we should cautiously review how we spend taxpayer dollars. There are ideas proposed, including the increased use of random roadblocks, that should be contemplated after a serious review of their effectiveness, a cost-benefit analysis, and a look at the reported abuses and intrusions on privacy that may be posed by increased use of enforcement measures not preceded by probable cause.

If we agree on the problem—high-BAC drivers that MADD says causes most of the alcohol-related traffic fatalities—then the solution must target these product abusers. A system of increased use and funding of random roadblocks surely does not. Roadblocks are the backbone of a “PR”-heavy traffic safety program, one that seeks to convince the public that it is illegal or immoral to drink any adult beverage and then drive. We’ve all heard the slogans: “Don’t drink and drive.” “You drink. You drive. You lose.” “Impairment begins with the first drink.” These slogans do not reflect the law, nor do they reflect reality. Roadblocks take that message one step further by targeting and punishing casual drinkers who are not a part of the problem and who are already behaving responsibly.⁸

Unfortunately, roadblocks are neither effective, nor do they have the level of support from law enforcement officials that you would expect from a truly effective safety program. A National Academy of Sciences study, conducted by economists from Harvard University and the University of Chicago, suggested that, “policies focused

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- About 8,000 deaths involved only a single car and in most of those cases the only death was the drunk driver.
 - That leaves about 5,000 sober victims killed by legally drunk drivers.”

Vartabedian, Ralph, “A Spirited Debate over DUI Laws,” *Los Angeles Times*, 30 December 2002.

⁵Testimony before the Subcommittee on Highways and Infrastructure, Committee on Transportation and Infrastructure, “Various Approaches to Traffic Safety,” 27 June 2002.

⁶See Chart 1.

⁷It is notable that a state implementing such a graduated penalties system today would—even if the program was proven effective in reducing drunk driving deaths—still be sanctioned under TEA-21. In fact, many states (like Minnesota and Wisconsin) have implemented a strong graduated penalty program (only starting at a higher BAC) but will still be sanctioned for not adopting .08 percent BAC.

⁸See Chart 2.

on stopping erratic drivers might be more successful.”⁹ Even research by NHTSA, the Insurance Institute for Highway Safety and the FBI point to saturation patrols to catch more drunk drivers. Because police discretion works, we hear from policemen that, “[roadblocks are] not a valid use of police time. We are involved in enforcement and education, but we do not have to include mass inconvenience and mass fear.”¹⁰

The adult beverage retailing community joins with the safety community in thanking you for your attention to these important issues and the dedication of important new funds to making our roads safer. Thank you, Mr. Chairman, for the opportunity to share our perspectives on safety issues with you today.

⁹Levitt, Steven D., and Porter, Jack, “How dangerous are drinking drivers?” *The Journal of Political Economy*, Chicago, December 2001.

¹⁰Wayne, NJ, Police Chief Robert H. Pringle, quoted in the *Bergen Record*, “Value of DWI Checks Doubtful,” 30 December 1985. See also the attached opinion editorial by former Indiana state trooper Stan Worthington, who manned some of that state’s first-ever roadblocks 20 years ago.

Los Angeles Times

MONDAY, DECEMBER 30, 2002

A Spirited Debate Over DUI Laws

The government's effort to compel states to lower blood-alcohol limits encounters resistance. A senator in Iowa calls the policy "blackmail."

By Ralph Vartabedian, Times Staff Writer

A high-pressure federal effort to toughen drunk driving laws across the nation is meeting resistance in a third of the states, where many politicians say the policy is counterproductive and misguided.

Highway safety regulators in 1998 called on states to lower the allowable blood-alcohol level for drivers to 0.08%, or risk losing millions of dollars in federal highway grants.

The majority of the states have conformed, but 17 states -- from Minnesota to South Carolina and Nevada to Delaware -- have rejected the approach and maintain laws that define drunk driving at 0.10% blood-alcohol.

Though no one defends drunk drivers or suggests abandoning the campaign against them, the states say federal officials have not shown that 0.08% laws save lives. Critics say the tougher laws weaken the emphasis on catching hard-core drunks who cause the most deadly crashes and saddle states with the costs of prosecuting tens of thousands of additional violators. "I don't think there would be one person saved by a .08 law," said Tom Rukavina, a Minnesota legislator representing the state's Iron Range, a sparsely populated region west of Lake Superior. "All we would have is more arrests. Almost every court case up here already involves drunk driving."

Rukavina estimates that a 0.08% law would result in 6,000 additional criminal arrests costing the state about \$60 million, outweighing the potential loss of federal highway funding. Nevada legislators have voted down 0.08% laws repeatedly for similar reasons, said Bernie Anderson, chairman of the state Assembly Judiciary Committee.

The federal-state standoff reflects broader controversies about the nation's campaign against drunk driving.

Some safety experts express frustration that the campaign against drunk driving has become such a politically powerful force that many safety issues involving roads, car standards and driver behavior are left in the shadows.

They say the dimensions of the drunk driving problem also may be misrepresented by complex government statistics.

Federal officials reject the criticism, asserting that 0.08% laws save lives and that the statistics showing that 40% of highway deaths involve alcohol do not exaggerate the problem.

In the midst of the holiday season, the airwaves are again filled with warnings to motorists to avoid drinking and driving. An average of 1,000 alcohol-related deaths occur between Christmas and New Year's, the deadliest holiday period of the year.

Jeffrey Runge, chief of the National Highway Traffic Safety Administration, launched a campaign this month to further step up enforcement, citing the continuing threat posed by "1 billion drinking and driving trips annually, which kill more than 45 people every day."

Nobody questions that the fight against drunk driving has resulted in tremendous progress during the last half a century, saving by some estimates 21,000 lives and radically changing the public mind-set about alcohol.

But progress in reducing drunk driving deaths has stalled in recent years. Between 1993 and 2001, alcohol-related driving deaths leveled out at about 17,000 a year despite many states adopting tougher laws and stepped-up enforcement.

Mothers Against Drunk Driving, the most powerful advocacy group on the issue and a driving force behind the federal government's push to lower the legal blood-alcohol limit, says the nation risks losing the battle and must pass even stricter laws, raise beer taxes and beef up enforcement.

Federal officials launched a holiday season campaign with the motto: "You Drink & Drive, You Lose." The advice for drivers is to avoid all drinking.

But many state officials and some accident experts worry that other types of driver impairments may not be getting the same kind of attention.

"Theoretically, very small amounts of alcohol in your blood impairs you, but so do antihistamines and lack of sleep," said Brian O'Neill, president of the highly respected Insurance Institute for Highway Safety.

We should focus on people who are seriously impaired at the kind of levels that are illegal. That's one reason the problem is overstated."

Advocates for safer cars and improved roads support the drunk driving effort, but say federal officials lack the same commitment to preventing the nearly 24,700 highway deaths involving sober drivers last year. That death toll has leaped 39% in the last two decades.

"There are other elements to highway safety than stopping drunk drivers," said Bella Dinh-Zarr, director of traffic safety policy at the American Automobile Assn. "We don't think [the campaign against drunk driving] is a silver bullet."

Added Clarence Ditlow, executive director of the Center for Auto Safety, an organization that often butts heads with the auto industry and government concerning vehicle safety standards: "It is a lot easier and cheaper to blame the driver than to blame the vehicle or the road design."

The federal highway safety agency has made drunk driving its priority, spending more than \$300 million annually on the issue, more than half its budget. Apart from the money, the issue occupies center stage politically, a coveted position MADD fiercely defends.

"We don't want cell phones and drowsy driving to become the next hot-button issue for the country, because they don't even compare with the problem of drunk driving," MADD President Wendy Hamilton said.

One of MADD's most unlikely critics, however, is its founder, Candace Lightner. She says MADD has turned into a "neo-prohibitionist" organization that has lost its focus on safety.

"I thought the emphasis on .08 laws was not where the emphasis should have been placed," she said. "The majority of crashes occur with high blood-alcohol levels, the .15, .18 and .25 drinkers. Lowering the blood-alcohol concentration was not a solution to the alcohol problem."

The toll of drunk driving is tabulated annually by the NHTSA; its Fatality Analysis Reporting System compiles figures from accident reports by police across the country.

In 2001, the system reported that alcohol-involved crashes took the lives of 17,448 people. That includes cases where there was direct evidence of alcohol and others where no evidence of alcohol was reported. Those cases are statistically estimated by a complex mathematical model that uses variables such as driver age, time of crash and gender. For example, if a young man hits a tree early in the morning, the model would classify the crash as alcohol-related, even without any evidence of alcohol.

A breakdown of the 17,448 deaths in 2001 includes:

- About 2,500 to 3,500 crash deaths in which no driver was legally drunk but alcohol was detected.
- 1,770 deaths involved drunk pedestrians killed when they walked in front of sober drivers.
- About 8,000 deaths involved only a single car and in most of those cases the only death was the drunk driver.
- That leaves about 5,000 sober victims killed by legally drunk drivers.

Those statistics are compiled largely through police reports that sometimes provide an incomplete and equivocal historical record.

Police sometimes blame alcohol with little or no evidence. For example, when Alabama State Trooper Darrick Dorrough investigated a fatal crash last year in the town of Aliceville, he suspected that the driver, Marvin B. Turnipseed, had been drinking. No alcohol test was reported and the family would later allege in a lawsuit that a defect caused their Ford Explorer to roll over.

Now Dorrough can't recall why he suspected drinking. "I don't think drinking was the primary cause of the accident. It could have contributed to it. That's a guess."

Nonetheless, NHTSA Administrator Runge says the agency's statistics and its mathematical models to estimate drunk driving data are scientifically valid and represent the actual risks of alcohol consumption in the U.S.

"It doesn't overstate it at all," Runge said. "The question is, is it a solvable problem? It is solvable."

More than 1.5 million people in the U.S. will be stopped, handcuffed and detained on drunk driving charges this year, putting it near the top categories of criminal behavior. A heavy legal hammer falls on the convicted, often including mandatory jail time, heavy fines and large legal defense costs. A drunk driving arrest can cost a motorist \$10,000, as well as license suspension.

While critics say that's well-deserved punishment, they are concerned that merely arresting more drivers will not reduce highway deaths.

The federal push for lowering the blood-alcohol limit to 0.08% is based on the assertion that it would save 500 lives per year nationwide, according to the formal rule issued by the NHTSA. But that estimate is highly controversial.

A June 1999 report by the General Accounting Office, the investigative arm of Congress, found that NHTSA's death reduction estimate was based on four studies that were flawed and failed to "provide conclusive evidence that 0.08% ... laws by themselves have resulted in reductions in drunk driving crashes and fatalities."

The NHTSA estimate also seems squishy to some drunk driving researchers.

"You are not going to see a big statistical difference between .08 and .10 blood alcohol level," said Kurt M. Dubowski, a pioneer in drunk driving medical research at Indiana University.

"While we lower the standard, brakes are getting better, highways are becoming safer, but congestion is growing. You can't peel those factors apart."

But the NHTSA's Runge argues strongly that impairment begins with the first sip of alcohol.

"Is it better to drive stone cold sober? Sure," she said. "Clearly, by .08 virtually all of the population is too impaired to react to a simple emergency."

Joseph Carra, director of the National Center for Statistics and Analysis, the NHTSA office that compiles the data, contends that all 17,448 alcohol-related highway deaths in 2001 would have been prevented if alcohol was removed from every driver.

NHTSA rests its case with studies such as those conducted by Herbert Moskowitz, a medical doctor, who is president of the Southern California Research Institute and regarded as a top alcohol researcher.

"There is no question that with any level of alcohol you increase the probability of a crash," Moskowitz said. "Most people don't realize the effects of low blood-alcohol. You are not intoxicated. You are not staggering."

A Moskowitz study, funded by NHTSA in April 2000, noted that activities requiring mental activity begin to degrade at below 0.05% blood-alcohol levels. Specifically, low levels of alcohol impair the ability to perform tasks that require divided attention, commonplace in driving.

But many accident investigators say it is often wrong to automatically blame alcohol whenever it is present in a crash.

"If you were to take away all that alcohol, would you take away all those accidents?" asked Kerry M. Clark, a human factors accident investigator in Southern California. "No. I can say that pretty strongly."

"I hate drunk drivers with a passion," he said, "but I have reviewed many circumstances where accidents by drunk drivers involved a reaction within the normal range of human response. In some cases, people would still make mistakes."

Among the states that still have 0.10% laws, there are bitter feelings about the federal government's pressure.

Under NHTSA's rule, the states that refuse to lower the drunk driving limit are losing portions of a six-year, \$500-million incentive grant program. Brad Hutto, a

South Carolina senator, has long opposed a lower legal limit and says he doubts his state will change its law even with the loss of funds.

"I call it blackmail," said Stewart Iverson, the Iowa Senate majority leader. "Why is .08 the magic number? By lowering it to .08, we are going to catch more of what I call the social drinkers. I had two friends killed by drunk drivers, but we have to be realistic."

And in Ohio, the anger is equally great. "Nobody is for drunk driving, but they are after the wrong end of the stick," said Richard Finan, president of the Ohio Senate. "The people who have had a few beers or a glass of wine are not the problem. We call it prohibition drip by drip. It is prohibitionists who want this. Their goal is zero tolerance."

MADD President Hamilton said she has heard such criticism many times before.

"My family has seen a lot of sorrow because of drunk driving, but it doesn't mean people should stop drinking. I am sitting here right now with a beer," Hamilton said on the evening she was interviewed by The Times.

MADD and its allies say the legislators are influenced by the alcohol and restaurant lobby. Legislators and their advocates deny that allegation and say MADD's \$50-million annual budget distorts the issue.

Although highway safety organizations endorse tough drunk driving laws, they lament the government's lack of commitment on other issues. Jackie Gillan, a vice president for Advocates for Highway & Auto Safety, notes that federal regulators have set a formal goal of reducing drunk driving deaths to 11,000 a year by 2005.

"Why don't they have a goal for reducing rollover deaths, which is increasing yearly and now exceeds 10,000 deaths a year," Gillan asked. "Their solution to rollover is to get people to buckle up to prevent death and injury. What about preventing the rollover from occurring in the first place?"

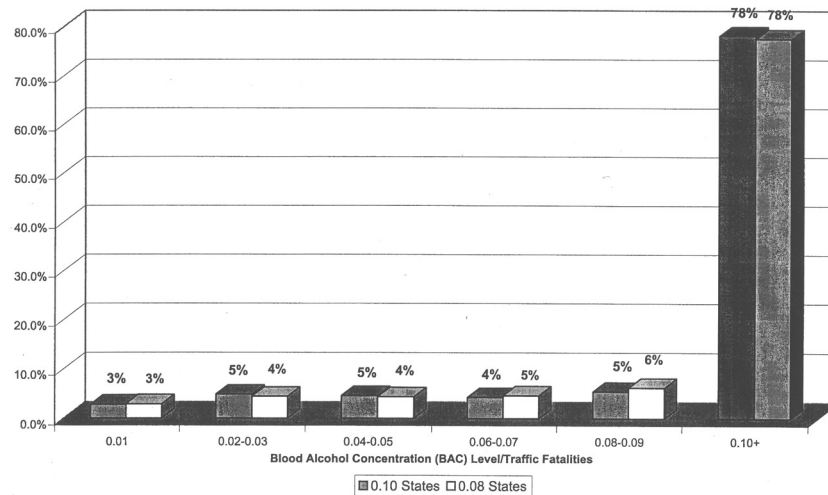
Roadway safety advocates say they are in the same boat.

"It is easier to pass a law that raises the threshold on drunk driving than it is to get rid of dead man's curve," said William Fay, president of the Roadway Safety Foundation.

"A lot of politicians don't want to spend money on things that don't have high visibility. But 15,000 deaths are caused every year due to maintenance and design of roadways. Our roads are designed for a fraction of the current traffic load."

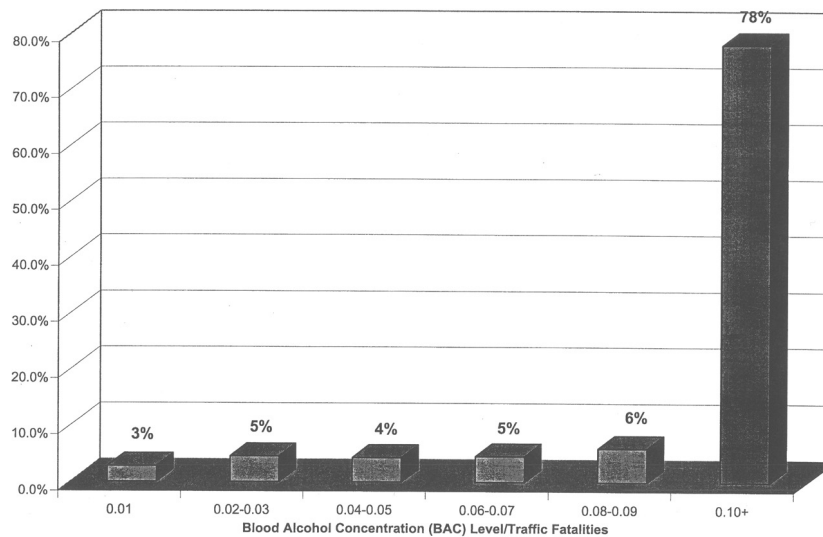
ATTACHMENT 2

Chart 1. Comparison of 2001 "Alcohol-Related" Traffic Fatalities in 0.08 and 0.10 States



Source: Unpublished ABI analysis of U.S. Department of Transportation Fatality Analysis Reporting System data on BAC levels and fatalities in accidents where a driver was actually tested. Imputed fatalities were not included in this analysis. Nineteen States were considered 0.08 states for the analysis including the District of Columbia. These 19 states all had 0.08 laws in effect prior to the 2001 year that was used for this analysis.

Chart 2. 1997-2001 National "Alcohol-Related" Traffic Fatalities



THE INDIANAPOLIS STAR

April 7, 2002

Roadblocks are all about PR, not safety

Stan Worthington

The Indiana Supreme Court ruled in March that roadblocks intended to catch drunken drivers are allowed under the state constitution. Maybe so, but they have not worked, and they will not work.

As an Indiana state trooper in the early 1980s, I quickly realized that roadblocks are all about public relations and have very little to do with safety. In fact, roadblocks make it more likely that dangerously drunken drivers will not be caught. Roadblocks require the deployment of more officers than they are worth, stretching already overtaxed police resources even further.

When I was working roadblocks in 1980 and 1981, every checkpoint had at least four officers on duty. Most had six or eight, because we were stopping so many vehicles to check drivers for sobriety.

With so many officers stopping cars at random, fewer were on patrol seeking out unsafe drivers. (Many of the officers at the roadblocks were working overtime, but each checkpoint probably took at least one officer off patrol.)

I led my district in convictions for driving under the influence two years in a row. Few of these convictions came from my time on roadblock detail.

When I was cruising the highways on patrol, I was much more likely to find actual drunken drivers and get them off the road. A

police officer needs probable cause to pull someone over.

Probable cause could be established by observing someone disobeying traffic laws, driving erratically, swerving, or driving too fast or too slow. I have even "chased down" DUI drivers going 10 miles per hour on the highway.

But the problem with roadblocks is not just that effort is misplaced. Setting up these checkpoints puts police officers and civilian drivers in danger, and it has nothing to do with alcohol.

Roadblocks are set up at night, when driver visibility is decreased. To get cars to pull over, officers must stand in the road, flag them down and get them to get in line.

How dangerous is it for a police officer to stand in the middle of a highway? Just as dangerous as it is for anyone else.

Innocent drivers are at risk as well. Roadblocks are intentionally set up in positions where cars cannot spot them and flee before being stopped; where there are no turns or exits.

Does this mean cars do not try to escape? Of course not. I often saw drivers do a hasty U-turn across double-yellow lines and head off the other way.

Yes, some of these drivers were drunk. But some just had unpaid traffic tickets and were afraid to be stopped. Some thought an accident was up ahead and wanted to avoid

it. But by cutting across the highway, they made an accident even more likely.

The only thing that will stop actual drunks from getting behind the wheel is jail time. As a trooper, I pulled over the same drunk numerous times in just 18 months. He was dangerous and should not have been on the road, but because he was never seriously punished, he just kept doing it again and again.

Roadblocks do not stop drivers like him. And since the time and location of roadblocks are announced in advance, even at high-danger times such as holiday weekends and New Year's Eve, guys like him get away. They know where the police will be so they go another way.

Roadblocks just harass responsible drivers and persecute responsible drinkers who had a beer at a friend's house or a glass of wine with dinner at a restaurant. They look great on the evening news as a sign of what's being done to stop drunken driving, but in reality they are counterproductive.

Indiana and other states should stop putting public relations ahead of public safety. Shut down the roadblocks and let the police do what they do best: protect the public.

Worthington is a former Indiana state trooper.

Senator SMITH. Thank you, sir.
Ms. Hamilton.

**STATEMENT OF WENDY J. HAMILTON, PRESIDENT,
MOTHERS AGAINST DRUNK DRIVING**

Ms. HAMILTON. Thank you. Good afternoon, Mr. Chairman. I'm Wendy Hamilton, national President of Mothers Against Drunk Driving. It is indeed an honor to be here today to testify on DOT's SAFETEA proposal, and MADD's priorities for the reauthorization of TEA-21. We look forward to working with this Committee to develop transportation policies that save lives and prevent injuries on our Nation's highways.

For the third consecutive year, alcohol-related traffic deaths have increased. Early statistics show that last year nearly 18,000 people were killed, and hundreds of thousands more were injured in these crashes. Alcohol-involved crashes accounted for an overwhelming 46 percent of all fatal injury costs. Unfortunately, the data speaks for itself.

The Nation, including its political leaders, has become complacent in this effort. Lack of funding for effective behavioral traffic safety programs and minimal resources for law enforcement officers to enforce existing laws are a major part of the problem. Last week MADD released its new Federal plan for the reauthorization of TEA-21. On that day we heard from members of the Senate who expressed their firm commitment to move the Nation in the right direction. MADD sincerely thanks Senator Dorgan, Senator Lautenberg, Senator DeWine and Senator Murray for their participation in this event and their leadership to reduce traffic death and injury.

Today MADD is asking Congress and the Administration to adopt MADD's research plan. I would like to submit this plan for the record.

Senator SMITH. Without objection.
[The information referred to follows:]



MADDTM
Activism | Victim Services | Education

Alcohol-Related Traffic Fatalities on the Rise

For Third Consecutive Year

In 2002, the nation experienced – for the third year in a row – an increase in alcohol-related traffic fatalities. Preliminary data show that at least 17,970 people were killed in crashes involving alcohol – representing 42 percent of the 42,850 people killed in all traffic crashes, up from 41 percent in 2001.

Crash Facts

- ◆ Motor vehicle crashes are the leading cause of death for Americans ages 1 to 35 years old
- ◆ On average, 117 people die each day from motor vehicle crashes in the United States
- ◆ Traffic crashes cost America more than \$230 billion annually according to the U.S. Department of Transportation
- ◆ Forty-two percent of all traffic deaths are alcohol-related
- ◆ Sobriety checkpoints reduce crashes involving alcohol by 20 percent according to the Centers for Disease Control
- ◆ About one-third of all drivers arrested or convicted of driving while intoxicated are repeat offenders
- ◆ Seat belts reduce the risk of fatal injury by 45 percent and reduce the risk of serious injury by 50 percent

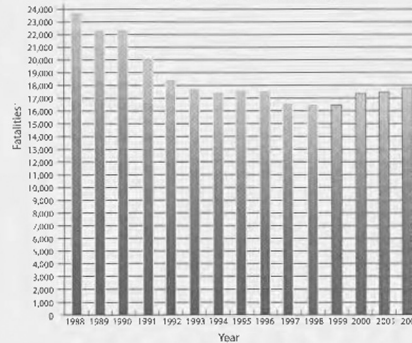
Put Research into Practice: TEA-21 and Traffic Safety

Reauthorizing TEA-21 Presents a Historic Opportunity to Reduce Alcohol-Related Traffic Deaths and Injuries

Mothers Against Drunk Driving's (MADD) goal for the reauthorization of the Transportation Equity Act for the 21st Century (TEA-21) is to advance traffic safety programs that will save lives and prevent injuries. Progress will occur when: 1) adequate funding is provided for traffic safety programs, and 2) a commitment is made to put proven countermeasures into practice. MADD believes the reauthorized traffic safety section of TEA-21 should:

- ◆ Establish a *National Traffic Safety Fund* to support state and national traffic safety programs, enforcement and data improvements
- ◆ Increase accountability for expenditure of federal funds
- ◆ Expand impaired driving and seat belt law enforcement mobilizations
- ◆ Enact a national standard to reduce repeat DWI and other higher-risk driver recidivism
- ◆ Enact a national primary seat belt standard
- ◆ Enact a national standard banning open containers of alcoholic beverages in vehicles

Alcohol-Related Traffic Fatalities



Graph courtesy of National Highway Traffic Safety Administration

Reductions in alcohol-related fatalities have stalled since the early 1990s

Accountability... Linking Results with Funding

While the nation experienced a substantial decrease in alcohol-related deaths in the 1980s and early 1990s, the U.S. is now experiencing an upward trend. This is due to inadequate funding, public complacency and the lack of coordinated plans of action at the state and federal levels.

Congress must hold states and the National Highway Traffic Safety Administration (NHTSA) accountable for the expenditure of federal highway safety funds. To reduce traffic fatalities, states must work in cooperation with NHTSA to develop strategic highway safety plans that establish goals and evaluation measures for funded

programs. NHTSA must have and exercise the authority to approve state highway safety plans — conducting meaningful reviews and requiring these plans to include effective impaired driving countermeasures that meet federal policy goals.

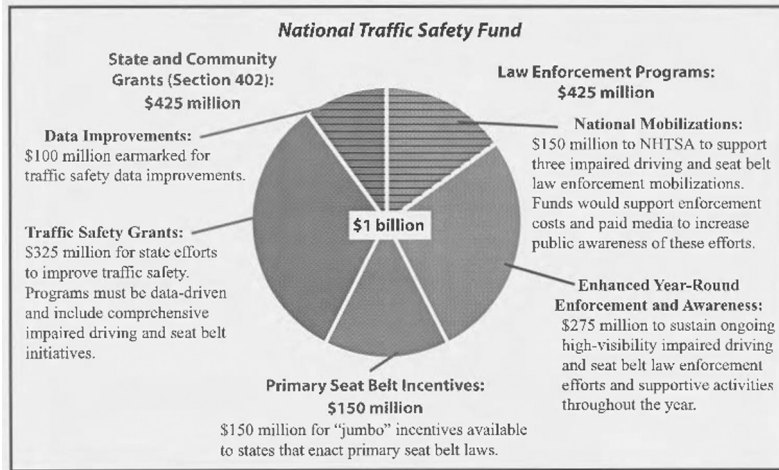
Research demonstrates that initiatives such as sobriety checkpoints and aggressive seat belt enforcement significantly reduce traffic deaths and injuries. MADD believes that these strategies must be the cornerstone for the reauthorization of the TFA-21 traffic safety section.



Traffic Safety Funding: Dedicating Dollars For Programs That Work

In 2001, federal funding for traffic safety programs was approximately \$522 million — less than one quarter of one percent of what traffic crashes cost Americans each year. Of the \$522 million, only \$133 million (26 percent) was spent on alcohol-related countermeasures.

MADD recommends establishing a \$1 billion dedicated *National Traffic Safety Fund* to provide increased, ongoing resources for priority traffic safety programs. It has been estimated that for every dollar spent on effective highway safety programs about \$30 is saved by society in the reduced costs of crashes.



State and Community Highway Safety Grants (Section 402)

Section 402 funding must be significantly increased. However, states must be held accountable for the expenditure of these funds to ensure that they are spent on effective traffic safety programs. These programs must be based on problem identification and reflect data-driven priorities.

Key Action Items:

- ◆ Create three levels of accountability for performance: NHTSA, NHTSA Regional Administrators, state highway safety offices
- ◆ Require strengthened NHTSA approval process of state highway safety plans, requiring a strong correlation between problem identification, strategy, program selection and funding
- ◆ Require Improvement Plan implementation for states with poor performance
- ◆ Priority programming must include comprehensive alcohol-impaired driving countermeasures and seat belt initiatives
- ◆ Dedicate \$100 million annually for state data improvements
- ◆ Require increased funding for Law Enforcement Liaisons to better coordinate state and national law enforcement efforts



Law Enforcement Resources and National Mobilizations

Law enforcement is the front line in the fight against impaired driving. Traffic safety laws must be consistently enforced and the public must be educated about the consequences of noncompliance. Law enforcement needs more resources from the federal government in order to strengthen traffic safety enforcement efforts. Funding is needed for officer training, technology and equipment, overtime and the deployment of aggressive enforcement strategies.

Law enforcement needs more resources from the federal government.

MADD recommends dedicated funding to carry out high-visibility traffic law enforcement campaigns. These campaigns combine targeted enforcement — sobriety checkpoints, saturation patrols and/or seat belt enforcement — with the purchase of advertising in broadcast or print media. These campaigns will focus on reducing drunk driving and increasing seat belt use.

Key Action Items:

- ✓ Provide \$275 million to sustain ongoing high-visibility law enforcement efforts and supportive activities throughout the year. \$165 million would be dedicated to impaired driving enforcement and \$110 million would be dedicated to seat belt enforcement. These funds may be used for enforcement-related expenses including training, technology, equipment, overtime and media support.
- ✓ Dedicate \$150 million to NHTSA to support three national law enforcement mobilizations focusing on reducing impaired driving and increasing seat belt use. Funds would support enforcement costs and paid media to increase public awareness of these efforts.

Priority Traffic Safety Laws

Higher-Risk Driver Standard

Higher-risk drivers fall into three categories: repeat offenders, offenders with a blood alcohol concentration (BAC) of .15 or higher, or offenders convicted of driving on a suspended license when the suspension was the result of driving under the influence. Nationally, one-third of all drivers arrested or convicted of driving while intoxicated are repeat offenders and in 2000, 58 percent of the alcohol-related traffic fatalities involved drivers with a BAC of .15 or above. A national standard must be enacted to ensure that higher-risk drivers are subject to consistent and aggressive detection, arrest and prosecution.

Key Action Items:

- ◆ Restrict vehicle operation by suspending licenses, impounding or immobilizing vehicles and requiring alcohol ignition interlock devices on offenders' vehicles.
- ◆ Require compensation to the community through fines, mandatory incarceration and financial restitution to crash victims.
- ◆ Promote recovery programs through mandatory alcohol assessment and treatment, intensive probation and attendance at victim impact panels.
- ◆ States that do not enact the national higher-risk driver standard would face the loss of highway construction funds.

Primary Seat Belt Standard

The best defense against an impaired driver is a seat belt. According to NHTSA, for every percentage point increase in seat belt usage, 280 lives can be saved.

Key Action Item:

- ◆ Establish a national primary seat belt standard. States would be eligible for "jumbo" financial incentives for three years. States that have not enacted a primary seat belt standard after three years would face the loss of highway construction funds.



Open Container Standard

Open container laws separate the consumption of alcohol from the operation of a vehicle. A common-sense measure, banning open containers in the passenger compartment of a vehicle will decrease the likelihood that drinking and driving will occur.

Key Action Item:

- ◆ Enact a national ban on open containers in the passenger compartment of motor vehicles. States that do not enact a ban on open containers would face the loss of highway construction funds.

.08 BAC Standard

Since the passage of the national .08 per se BAC standard in 2000, 18 states have passed this important legislation, bringing the total number of states in compliance to 38 and the District of Columbia (as of early May 2003).

Key Action Items:

- ◆ MADD will continue to work to ensure .08 BAC is the standard in every state.
- ◆ MADD will vigorously oppose any attempt to repeal the national .08 BAC standard.



Mothers Against Drunk Driving (MADD) is a 501(c)(3) non-profit grass roots organization with more than 600 chapters nationwide.

MADD's mission is to stop drunk driving, support the victims of this violent crime, and prevent underage drinking.

4

For additional information on MADD's priorities for the reauthorization of TEA-21, please contact:

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Ms. HAMILTON. MADD's plan establishes a national traffic safety fund of \$1 billion annually. Under this fund, MADD recommends dedicated increased funding for highly visible law enforcement activities. The Click It or Ticket national law enforcement mobilization campaign has been very successful at increasing seat belt usage. We know that sobriety check points are one of the most effective tools the Nation has to stop impaired driving, and that they are especially effective when coupled with media campaigns that raise the visibility of these efforts.

Thanks to the Senate, funds were dedicated in Fiscal Year 2003 to conduct these mobilizations. Why then has NHTSA not requested any funding to continue this lifesaving effort? I would like to thank Senator Lautenberg and Senator DeWine for introducing legislation today that would provide substantial funding for enforcement efforts to stop drunk driving and increase seat belt use. If enacted, this bill will save lives.

MADD also recommends dedicating increased behavioral funding for State efforts to improve traffic safety. While NHTSA's funding request appears to have increased dollars for behavioral safety, this is not the case. Only a percentage of this funding will be spent on behavioral safety, since states are able to use much of this funding for roadway construction safety projects. Though NHTSA continuously states that reducing alcohol-related traffic fatalities is a top priority, the Fiscal Year 2004 budget request simply does not support these claims.

MADD was shocked to learn that impaired driving programs merit less than one page of DOT's 378-page SAFETEA proposal. SAFETEA actually decreases funding for alcohol-impaired driving by 67 percent. The only funding specifically allocated for impaired driving is \$50 million. The overwhelming majority of safety funding in the SAFETEA proposal is budgeted in the new highway safety improvement program, which is really dedicated to roadway construction safety projects. This specific construction safety program receives a 117 percent increase. While construction safety is important, DOT itself along with the GAO recognizes that human behavior, not roadway environment, is overwhelmingly seen as the most prevalent contributing factor to crashes.

To compare, DOT's recreational trails program, funded at \$60 million in the Fiscal Year 2004 budget, receives 20 percent more funding than the impaired driving grants program. It appears from a budget standpoint that keeping recreational trails safe for a small population of users is even more important to DOT than keeping all highway users safe from impaired drivers. Again, why?

MADD's plan calls for greater accountability controls to ensure that Federal funds are being used in a strategic and coordinated manner. Recently the GAO at the request of Senator Dorgan released a report detailing the management and use of Federal highway safety funds. GAO concluded, and I quote, "NHTSA's oversight of highway safety programs is less effective than it could be, both in ensuring the efficient and proper use of Federal funds and in helping the states achieve their highway safety goals." GAO's report shows that in the face of rising traffic deaths, more Federal oversight and guidance is needed for the expenditure of Federal safety dollars to ensure that these funds are spent on effective be-

havioral programs. This is fiscal responsibility. MADD urges Congress to strongly encourage states to enact proven traffic safety laws such as a national traffic primary seat belt standard, and high risk driver standards.

MADD knows that the best defense against a drunk driver is a seat belt. As NHTSA proposes, states should be given financial incentives to enact primary belt laws. However, states that do not enact this lifesaving measure after 3 years should lose Federal highway construction funds.

MADD also calls for the enactment of a national standard to combat higher risk drivers. While higher risk drivers are a small portion of the population, they pose a significant threat to motorists. And again, we want to thank Senator Lautenberg and Senator DeWine for introducing legislation today that targets this dangerous population. If enacted, this bill would close loopholes to ensure that repeat and high BAC offenders do not slip through the cracks.

This bill is one that has significant meaning for me and my family. On September 19, 1984, a high BAC driver caused the head-on collision that killed my 32-year-old sister, Becky and my 22-month-old nephew, Timmy. That crash occurred at 1:50 p.m. on a beautiful sunny Wednesday afternoon. Three hours after the crash, the offender tested at a .16 blood alcohol. The police pulled 4 empty bottles of Jim Beam from his vehicle.

Ms. Gillan mentioned in 2009, she hopes the war against drunk driving is being won. MADD is here to say we hope that this war has been won and with the goals that we have asked for, we know that we can. Our Nation lacks a clear, consolidated, coordinated solution to reduce impaired driving fatalities. Maintaining the status quo or worse, decreasing resources dedicated to fighting drunk driving, will not reverse this deadly trend. The reauthorization of TEA-21 provides the best chance to provide adequate funding, behavioral safety funding to ensure these funds are being used effectively and to enact laws that will save lives. I urge Congress to adopt MADD's proposal and to create safer roads for all Americans. Thank you.

[The prepared statement of Ms. Hamilton follows:]

PREPARED STATEMENT OF WENDY J. HAMILTON, NATIONAL PRESIDENT,
MOTHERS AGAINST DRUNK DRIVING (MADD)

Good Morning. My name is Wendy Hamilton and I am the National President of Mothers Against Drunk Driving. I am honored to be here today to testify on the reauthorization of the National Highway Traffic Safety Administration (NHTSA) and its safety programs. We look forward to working with the Committee to develop transportation policies that provide appropriate funding and employ effective, aggressive countermeasures to prevent injuries and save lives on our Nation's roads.

Administration Outlines Highway Safety As A Public Health Crisis; However, Funding Requests Do Not Adequately Address Problem

According to DOT, motor vehicle crashes are responsible for 95 percent of transportation sector deaths and 99 percent of all transportation-related injuries within the United States as well as the leading cause of death for people ages 4 through 33. In 2002, an estimated 42,850 people died on the Nation's highways, up from 42,116 in 2001.

This alarming amount of injury and death on our Nation's roadways creates a tremendous drain on the Nation's economy. Economic losses due to motor vehicle crashes cost the Nation approximately \$230.6 billion each year, an average of \$820 for every person living in the United States.

DOT's announcement of preliminary 2002 fatality estimates calls for "better state laws that address the causes of the problem and stricter enforcement." But DOT's FY04 request and its reauthorization proposal cut funding for behavioral safety initiatives, even while DOT's own research demonstrates that human behavior is overwhelmingly the leading factor in death and injury on our Nation's roads.

Alcohol-Related Traffic Fatalities On The Rise For Third Consecutive Year

For the third consecutive year, alcohol-related traffic deaths have increased. Preliminary statistics show that nearly 18,000 people were killed and hundreds of thousands more were injured in these crashes just last year. That's 49 deaths and hundreds of injuries day in and day out. Alcohol-involved crashes accounted for 21 percent of nonfatal injury crash costs, and an overwhelming 46 percent of all fatal injury crash costs. In order to reverse this trend, the Nation cannot maintain the status quo and expect a different result.

Last week at a national news conference, MADD commemorated the 15-year anniversary of the worst drunk driving crash in U.S. history—the Kentucky Bus Crash. On May 14, 1988, 27 people—24 children and 3 adults—were killed and 30 others were injured coming home from a church outing. They were victims of a repeat drunk driving offender, behind the wheel of his pickup driving on the wrong side of the road. He had a blood alcohol concentration of .24—three times the illegal limit today in Kentucky and the majority of all other states and DC.

The Kentucky Bus Crash was heard around the world because 27 perished and 30 others were injured in an instant. But tragically, one by one, over the past 15 years, the equivalent to 10,400 Kentucky Bus Crashes have occurred in our country as nearly 281,000 Americans have been killed and millions of others have been injured in alcohol-related traffic crashes since that tragic day.

Unfortunately, the data speaks for itself: the nation—including its political leaders—has become complacent in this effort. Drunk drivers continue to slip through cracks in the system. Weak laws, lack of funding for effective traffic safety programs and minimal resources for law enforcement officers to enforce existing laws are all part of the problem. There is no coordinated effort at the national, state and local level to combat this public health problem. Additionally, drunk driving is still often treated as a minor traffic offense rather than what it really is—the most frequently committed violent crime in our country.

MADD's Safety Plan: Putting Research Into Practice

Last week MADD released its new Federal plan for the reauthorization of Federal traffic safety programs. In conjunction with MADD's announcement, we heard from Members of the Senate who expressed firm commitment to move the Nation in the right direction. MADD sincerely thanks Senator Frank Lautenberg, Senator Mike DeWine, Senator Byron Dorgan and Senator Patty Murray for their participation in this event and for their leadership to reduce traffic death and injury.

Today, MADD is asking Congress and the Administration to ensure that highway safety is a cornerstone of the reauthorized Transportation Equity Act for the 21st Century (TEA-21). And they can do so by embracing MADD's research-based reauthorization plan. MADD's plan would:

- Establish a National Traffic Safety Fund (NTSF)—\$1 billion annually—to provide a major infusion of dedicated Federal funds to support state and national traffic safety programs, enforcement and data improvements;
- Under the NTSF:
 - dedicate increased funding for states and local communities to expand highly visible law enforcement activities to reduce impaired driving and increase seat belt use, including national enforcement mobilizations supported by paid media;
 - dedicate significantly increased funding for state efforts to improve traffic safety by implementing data-driven programs;
- Create stricter accountability controls to ensure that Federal funds are being used in a strategic and coordinated effort at both the state and Federal level;
- Encourage states to enact priority traffic safety laws, such as primary seat belt enforcement, higher-risk driver and open container standards.

I want to briefly talk in more detail about MADD's reauthorization priorities.

Funding is key to the success of national, state and local traffic safety programs to reduce drunk driving. But in the year 2001, while traffic crashes cost taxpayers \$230 billion, the Federal government spent only \$522 million on highway safety and only one-quarter of that was used to fight impaired driving. Compared to the finan-

cial and human costs of drunk driving, our Nation's spending is woefully inadequate to address the magnitude of this problem.

Establishing a National Traffic Safety Fund would give those on the front lines an increased, ongoing and reliable funding stream for national, state and local highway safety programs. MADD recommends an annual \$1 billion dedicated fund for traffic safety programs. We know that for every dollar spent on effective highway safety programs about \$30 is saved by society in the reduced costs of crashes. This would be a wise investment.

States must have additional resources if they are expected to reach their highway safety goals. Section 402, State and Community Highway Safety grants, provides funding to states to support highway safety programs designed to reduce traffic crashes and resulting deaths, injuries, and property damage. TEA-21 authorized \$163 million in FY03 for Section 402 grants. MADD recommends a substantial increase in Section 402 funding to help states reach their highway safety goals. Of the \$1 billion annually, MADD recommends \$425 million for the reauthorized Section 402.

Although alcohol is a factor in 42 percent of all traffic deaths, only 26 percent of all highway safety funding available to the states through TEA-21 is spent on alcohol-impaired driving countermeasures. Too often highway safety funding made available to the states is used for other programs that may not save as many lives or prevent as many injuries as priority traffic safety programs. It is critical that these funds are spent on data-driven programs that include comprehensive impaired driving and seat belt initiatives. The National Traffic Safety Fund would also be used to expand states' well-publicized law enforcement activities to curb drunk driving and increase seat belt use. These law enforcement resources would support training, over-time, technology and paid advertising throughout the year. Additionally, funds would be available for three highly visible national impaired driving and seat belt law enforcement mobilizations.

These law enforcement activities should utilize, when possible, frequent and highly visible sobriety checkpoints. These are among the most effective tools used by law enforcement to deter impaired driving. We know through research and real world experience that sobriety checkpoints save lives. The CDC found that sobriety checkpoints can reduce impaired driving crashes by 18 to 24 percent. These checkpoints are especially effective when coupled with media campaigns that raise the visibility and awareness of drunk driving enforcement efforts in the community with the bottom line goal of *detering* impaired driving before it happens.

Without significant increases in the level of funding for these critical safety programs, the current deadly trend will continue to worsen.

But it is just as important to know where the money is going and how it is being spent. That is why MADD is asking Congress to hold states and the National Highway Traffic Safety Administration accountable for the expenditure of Federal highway safety funds. Our goal is not to make their jobs more difficult. It is to recognize that political pressures and "flavor of the month" traffic safety issues can influence how dollars are spent. If DOT's primary goal is to reverse the current trend, it is time to create a more consistent process that ensures the efficient and proper use of Federal funds to help the Nation achieve its highway safety goals.

MADD also urges Congress to strongly encourage states to enact proven traffic safety laws, such as a national primary seat belt enforcement standard. According to NHTSA, for every percentage point increase in seat belt usage, 280 lives can be saved. MADD knows that the best defense against a drunk driver is a seat belt. The fact is, of those killed in alcohol-related traffic crashes, 76 percent were not wearing their seat belt. Had they been, a significant portion of them would be alive today.

Drunk drivers typically do not buckle up, nor do they make sure their passengers are properly restrained. The sad fact is that two-thirds of children killed in alcohol-related crashes are passengers driven by an impaired driver. We also know that seat belt use for children generally decreases the more impaired a driver becomes. MADD calls for the establishment of a national primary seat belt standard. States would be eligible for "jumbo" financial incentives for three years. States that have not enacted this lifesaving measure after three years would lose Federal highway construction funds.

MADD also calls for the enactment of a national standard to combat "higher-risk drivers." "Higher-risk drivers" are defined as repeat offenders, those with BACs of .15 or higher, or persons caught driving on a suspended license when the suspension is a result of a prior DUI offense.

This priority is one that has personal meaning for me. On September 19, 1984, a high BAC driver caused the head-on collision that killed my 32-year-old sister Becky and my 22-month old nephew Timmy. Three hours after the crash, the of-

fender tested at a .16 BAC. Police pulled four empty bottles of alcohol from his vehicle.

While higher-risk drivers are a small portion of the population, they pose a significant threat to innocent motorists. On a typical weekend night, only one percent of drivers have a BAC of .15 or higher, but high BAC drivers were involved in over one-half of all alcohol-related traffic deaths in 2000. And, about one-third of all drivers arrested or convicted of DUI are repeat offenders. Clearly, we need leadership from Congress and the Administration to encourage states to act now to get this most dangerous segment of the driving public off of our roads.

MADD is backing research-based solutions to address the higher-risk driver through what we call: Restrictions, Restitutions and Recovery. Restrictions include mandatory sentencing, strict licensing and vehicle sanctions such as immobilization and ignition interlock devices. Restitution includes payment to victims and to the community by offenders. Recovery focuses on efforts to address the offender's substance abuse and addiction. States that do not enact comprehensive higher-risk driver legislation would lose Federal highway construction funds.

Lastly, MADD calls on Congress to enact a national ban on open containers in the passenger compartment of motor vehicles. Open container laws separate the consumption of alcohol from the operation of a vehicle. A common-sense measure, banning open containers in the passenger compartment of a vehicle will decrease the likelihood that drinking and driving will occur. One NHTSA study found that states with open container laws have lower rates of alcohol-related fatalities, while another study conducted by the Stanford University Institute for Economic Policy Research found that, controlling for other variables, open container laws had a significant effect on reducing fatal crash rates (by over five percent).

The Kentucky Bus Crash reminds us that for every loss and for every tragic death and injury there is untold suffering and emotion. That said, MADD is committed to advocating research-based and proven-effective countermeasures to prevent others from having to experience what the families of these victims have suffered.

It's not about feel good. It's about doing what is right, and doing what will most effectively save lives. That is what drives our agenda, and that is what is behind our proposals for the reauthorization of TEA-21.

NHTSA's FY 2004 Budget Provides Inadequate Resources and Little Guidance To Reach Highway Safety Goals

In the FY04 Budget in Brief, NHTSA states that it is "committed to pursuing an aggressive safety agenda" and that "[b]ehavioral safety initiatives will be directed to increasing safety belt use and deterring impaired driving, which are central to achieving the Department's traffic fatality goal." While NHTSA's funding request appears to have increased monies for behavioral funding, this is not the case. In fact, the FY04 request is less than the FY03 request. This is because the FY04 request includes \$222 million of TEA-21 resources for the Sections 157 and 163 grant programs formerly appropriated in the Federal Highway Administration budget. NHTSA has always administered these funds and is now requesting receipt of this funding directly. This apparent increase is really no increase at all, just a shifting of grant funds.

The current FY04 request for behavioral funding is \$516,309,000, but once Sections 157 and 163 monies are subtracted the amount is lowered to \$294,309,000. The FY04 request is actually \$234,000 less than the FY03 request.

Additionally, only a percentage of this funding will be spent on behavioral safety since states are able to use this funding for roadway safety/highway construction projects.

One of NHTSA's primary FY04 goals is to reduce the rate of alcohol-related highway fatalities per 100 million vehicle miles traveled (VMT) to 0.53. In its Budget in Brief, NHTSA states the following:

The 2003 target of .53 per 100 million VMT, if met, will result in a reduction of alcohol-related fatalities to 15,600. . . It will be a challenge to meet this target by the end of 2003. The agency is implementing new programs in 2003 that should begin to see positive results by the end of the year. Even though NHTSA should begin to see results in 2003, the agency still may not be able to achieve the target without the states and communities enacting and, more importantly, enforcing strong alcohol laws and reforming their individual impaired driving control systems.

However, it is not clear from the FY04 budget what these new programs are and where the money is coming from to continue them. NHTSA's FY04 budget request clearly does not reflect the severity of the impaired driving problem. While NHTSA's FY04 budget states that "Protecting vehicle occupants and deterring impaired driv-

ers are among the major ways we are able to reduce death and injury,” the level of funding for impaired driving countermeasures is utterly insufficient. For example, the Impaired Driving Division budget request is significantly lower than FY02 enacted levels (\$10,926,000 FY04 request compared with \$13,497,000 FY02 enacted). NHTSA states that “Aggressive actions are needed to expand focus on several key high-risk populations, including underage drinkers, 21–34 year olds, and repeat offenders,” but seeks fewer resources to reach these goals.

Under “Anticipated FY 2003 Accomplishments” NHTSA recognizes that “Two nationwide law enforcement mobilizations (July and December) will be conducted,” bolstered by a national media public service advertising campaign. The “Click It or Ticket” national law enforcement mobilization campaign has been highly successful at increasing seat belt usage. Thanks to the Senate, funds were dedicated in the FY03 budget to conduct similar national mobilizations to reduce alcohol-impaired driving deaths and injuries. However, NHTSA does not request any funding to continue this effort.

Additionally, NHTSA’s State & Community Highway Safety Program drastically reduces funds available to states for impaired driving initiatives. NHTSA’s FY04 request provides a \$50 million impaired driving grant program to only a subset of states to demonstrate the effectiveness of a comprehensive approach to reducing impaired driving and for identifying causes of weakness in a state’s impaired driving control system. This funding level is \$100 million less than funds available to states in FY03 for impaired driving improvements.

While NHTSA continuously states that reducing alcohol-related traffic fatalities is a top priority, the FY04 budget request does not support these assertions.

Administration’s “SAFETEA” Proposal Cuts Alcohol-Impaired Driving Funding and Incentives, Lacks Behavioral Safety Funding

MADD was dismayed to learn that impaired driving control programs merit less than one page out of the 378 page U.S. Department of Transportation (DOT) surface transportation proposal. DOT’s proposal, “SAFETEA,” falls woefully short of real “safety” for America’s roadways and includes an inadequate response to this urgent national problem.

“SAFETEA” decreases funding for alcohol-impaired programs by 67 percent. The proposal recommends an impaired driving program of only \$50 million, far less than current funding levels and clearly not enough to reverse this deadly trend. In FY03, TEA–21 authorized \$150 million for alcohol-impaired driving countermeasures and also contained requirements for states to enact repeat offender and open container laws. If states failed to pass these alcohol-impaired driving laws then a percentage of their Federal construction funds were transferred. Not only does “SAFETEA” cut impaired driving funding to \$50 million, it also does not include any incentives to states to enact alcohol-impaired driving laws.

In comparison, “SAFETEA” provides the Recreational Trails Program (RTP)—\$60 million in FY04—with 20 percent more funding than the Impaired Driving Grants Program. The RTP program provides funds to develop and maintain recreational trails for motorized and non-motorized recreational trail users. It appears, at least from a budget standpoint, that keeping recreational trails safe for a small population of users is even more important to DOT than keeping all highway users safe from impaired drivers.

The overwhelming majority of “safety” funding in the “SAFETEA” proposal is budgeted in the new “Highway Safety Improvement Program” (HSIP), which is really a highway construction project program. In 2004 alone, \$1 billion is allocated to the HSIP program. These funds are to be used for “safety improvement projects,” defined below.

A safety improvement project corrects or improves a hazardous roadway condition, or proactively addresses highway safety problems that may include: intersection improvements; installation of rumble strips and other warning devices; elimination of roadside obstacles; railway-highway grade crossing safety; pedestrian or bicycle safety; traffic calming; improving highway signage and pavement marking; installing traffic control devices at high crash locations or priority control systems for emergency vehicles at signalized intersections, safety conscious planning and improving crash data collection and analysis, etc.

While these are all important activities, DOT itself recognizes that human behavior, not roadway environment, is overwhelmingly seen as the most prevalent factor in contributing to crashes. The General Accounting Office (GAO) released a report in March 2003 that reconfirms this premise after surveying data, experts and studies focusing on factors that contribute to motor vehicle crashes. Given that behavioral factors account for the majority of traffic crashes, it is difficult to understand

the vastly disproportionate funding levels for behavioral versus roadway construction safety programs and why DOT allows a significant portion of the behavioral funds to be used to augment even more roadway construction spending.

While NHTSA continuously states that reducing alcohol-related traffic fatalities is a top priority, the Administration's "SAFETEA" proposal does not support these claims.

Increased Resources Are Required To Significantly Reduce Highway Deaths and Injuries

Research demonstrates that certain programs and initiatives will significantly reduce traffic deaths and injuries. In order to implement these programs and initiatives, increased resources are needed. The reauthorization of Federal highway safety programs provides the vehicle to obtain more resources to combat this public health problem. MADD urges Congress to consider the merits of each traffic safety program based upon their ability to reduce or prevent alcohol-related traffic fatalities. MADD's goal is to ensure that Federal traffic safety dollars are spent on effective programs and that states pass basic laws to combat alcohol-impaired driving.

NHTSA's traffic safety budget is wholly inadequate. Faced with the highest number of highway fatalities since 1990, and a cost to America's economy of over \$230.6 billion annually, the agency's budget request should reflect the growing need for more resources rather than maintain the status quo. Currently, the Federal government's funding for traffic safety programs does not reflect the importance of this public health crisis. The reauthorization of TEA-21 offers Congress the opportunity to review and reallocate funds to traffic safety.

GAO Report Highlights Deficiencies In Oversight Of Highway Safety Initiatives

Recently the General Accounting Office (GAO) released a report detailing the management and use of Federal highway safety programs and funding. GAO concluded the following:

. . . NHTSA's oversight of highway safety programs is less effective than it could be, both in ensuring the efficient and proper use of Federal funds and in helping the states achieve their highway safety goals.

GAO's report shows that Federal oversight of state spending on highway safety programs has been inadequate in the face of rising traffic deaths and that NHTSA has not been consistently monitoring how funds are being used. GAO also found that NHTSA has no consistent policy for conducting state reviews or improvement plans. As a result, some regional offices conduct reviews as infrequently as every two years, while others conduct them only when a state requests one. This clearly enables some states to slip through the cracks. For example, the report found that the rate of alcohol-related traffic deaths rose in 14 states between 1997 and 2001; in seven of those states, the rate was higher than the national average, but only one of the seven states had a NHTSA improvement plan. The GAO also found that seat belt use was declining in some states that didn't have NHTSA improvement plans.

The GAO report also reveals how states use some of their highway "safety" funding. States that did not meet either the open container or the repeat offender requirements in TEA-21 has a percentage of funds transferred from their Federal highway construction program to their Section 402 highway safety grants program. However, states were also able to allocate transferred funds to highway construction projects under the Federal Highway Administration's (FHWA) Hazard Elimination Program (HEP). An overwhelming 69 percent of the transferred funds were used by states for construction anyway projects anyway, the GAO reported.

The GAO report demonstrates that more Federal oversight and guidance is needed for the expenditure of Federal highway safety funds to ensure that these funds are spent on effective behavioral programs. Clearly there are legitimate areas of public health and safety in which the Federal government should be involved in setting standards. Similar to airline safety, highway safety warrants Federal government involvement. In this country we have a national highway system. Families should be protected from the consequences of impaired driving whether they are driving through Alabama, Washington or North Dakota. Impaired drivers do not recognize state boundaries. Drunk driving is a national problem and it demands a national solution.

Call To Action: Nation's Leaders Must Provide A Roadmap

However, our Nation lacks a clear, coordinated national and state solution to reduce impaired-driving deaths and injuries. Congress now has the opportunity to dedicate proper funding to address this public health epidemic, and to ensure proper

use of these funds. While continued research efforts are critical in order to identify new and improved methods to deter drunk driving, there are many proven, research-based strategies that are not being used to reverse the current deadly trend. These strategies can and must be employed to make progress in the effort.

MADD urges Congress to provide adequate funding to NHTSA, and to require NHTSA to develop a roadmap for itself and the states to significantly reduce alcohol-related deaths and injuries. The nation is waiting for short-term, immediate strategies such as high-visibility enforcement efforts and sobriety checkpoints to turn this trend around, as well as long-term strategies that will ensure our safety on America's roadways for years to come. Our nation can no longer afford the current state of inaction on this issue.

Today, we are at a historic crossroads as Congress takes up the multi-billion dollar reauthorization of TEA-21 that will shape transportation policy for the rest of this decade and beyond. Maintaining the status quo, or worse, decreasing resources dedicated to fighting drunk driving will not reverse this deadly trend. This is our best chance to ensure adequate highway safety funding, to ensure that these funds are being used effectively, and to enact laws that will keep drunk drivers from getting behind the wheel. I urge Congress to adopt MADD's proposal and create safer roads for all Americans. Thank you.

Senator SMITH. Thank you. And a genuine appreciation to each of you for your preparation and participation in this hearing. In the interest of the vote that's about to begin, I will leave the record open so that others of my colleagues may have questions and I do as well, that we will submit to you in writing so that they can be included in the record as well.

Thank you all, and we are adjourned.

[Whereupon, at 4:20 p.m., the hearing was adjourned.]

A P P E N D I X

COMMENTS OF CONSUMERS UNION ON REAUTHORIZATION OF THE NATIONAL HIGHWAY
TRAFFIC SAFETY ADMINISTRATION (NHTSA) BEFORE THE SENATE TRANSPORTATION
AND COMMERCE COMMITTEE

1. Increase NHTSA's Motor Safety and Consumer Information Programs Budget

In 2002, an estimated 42,850 people died on the Nation's highways and over 3 million more were injured in motor vehicle crashes at a cost of \$230.6 billion per year. This is the highest number of highway fatalities since 1990. Further, rollover crashes involving SUVs and pickup trucks accounted for 53 percent of the increase in traffic deaths over the past year. Although nearly 95 percent of all transportation-related fatalities occur as a result of highway crashes and this number appears to be growing, NHTSA's total budget for motor vehicle and traffic safety programs is disproportionately small, representing less than 1 percent of the U.S. Department of Transportation's annual budget—too small to adequately cover their large mandate. We share the concerns of Advocates for Highway and Auto Safety and others that the authorization funding level for NHTSA's motor vehicle safety and consumer information programs, only \$107.9 million currently, needs to be increased dramatically to meet the agency's growing obligations, which include more extensive crash and rollover testing through the New Car Assessment Program (NCAP). These programs contribute dramatically to giving consumers better choices. That information and those choices have a significant impact on how the vehicles are designed and what safety features they provide.

2. Reduce Rollover Risks:

Rollover crashes represent 3 percent of all collisions but account for 32 percent of occupant fatalities. Hence, while the auto industry argues frequently that rollover crashes are relatively rare events, what they fail to note is that rollover crashes are far more deadly than other types of crashes.

- CU urges Congress to insure that NHTSA moves quickly to finalize its proposal for dynamic testing for rollover in the very near future. This mandate resulted from the requirement in the TREAD Act of 2000 that NHTSA develop a dynamic rollover test within a two-year period. We are well past that period, and while CU recognizes that NHTSA has had many new responsibilities and obligations to fulfill since the enactment of TREAD Act, the problem of rollover prevention has never been more pressing: fatalities in rollover crashes involving SUVs and pickup trucks accounted for 53 percent of the increase in traffic deaths over the past year, directly correlated with the change of the fleet to include a far higher percentage of SUVs and pickup trucks than a decade ago, vehicles that are more prone to roll over than the passenger car.

We eagerly anticipate NHTSA's program to test SUVs and other vehicles and rate their rollover resistance through the New Car Assessment Program (NCAP) program. We believe the rating system will have a strong impact on SUV design, as the NCAP program has had on vehicle crashworthiness, with consumers enjoying steady improvements in the crash protection provided by the vehicles since the NCAP program's inception. This is not government regulations, but rather a highly effective information program.

As noted above, Congress should provide additional resources to NHTSA to conduct the testing needed to keep the NCAP program active and ongoing. Without resources, the rollover testing program will languish as a weak ineffective tool.

In addition to the rollover resistance testing that is in the works for light trucks, we also:

- recommend that Congress support legislation offered by Senator Snowe that would require that 15-passenger vans be made part of the testing program and that the agency consider rating the stability of these vans, as well;

- recommend that collision avoidance or electronic stability control (ESC) technology be made standard equipment on all SUVs, which have a greater tendency to roll over. In the next 3 years, NHTSA should test light trucks with and without ESC systems and provide guidance as to which systems are most effective.

ESC has performed well overall in CU's emergency handling tests and appears to be very effective in helping drivers to maintain vehicle control in panic or emergency maneuvers and helps prevent the vehicle getting into a situation where it can roll over. Their widespread use is virtually certain to result in fewer rollover-related deaths and injuries.

- We believe it is possible that adding ESC systems and dual rear wheels to 15-passenger vans would improve their stability, as well, and recommend the agency consider requiring ESC and dual rear wheels on these vans as standard equipment at a date certain in the future.
- Dynamic interior head air bag protection systems have also been shown to reduce occupant ejection and prevent injuries during a crash. These air bag systems give occupants more side protection in a rollover and also prevent unbelted occupants from being ejected. Congress should direct NHTSA to study the effectiveness of head air bags in NHTSA's compatibility crash testing. Congress might also consider directing NHTSA to require, phased in over the next five years, these systems be standard on all vehicles, especially small and medium size cars.
- NHTSA is currently reviewing comments for an updated standard on vehicle roof crush. This committee should urge the agency to speed its work on that critical area—many belted drivers in SUV rollovers have been killed or gravely injured as a result of injuries to the spine from inadequately designed roofs.

3. Recommendations for reducing the risks from vehicle incompatibility

- Congress should direct NHTSA to develop crash tests to assess crash incompatibility between sedans and light trucks, and make results available to consumers. NHTSA should begin to set standards to reduce vehicle incompatibility to better protect smaller vehicle occupants, and to reduce the effects of SUV and pickup truck aggressivity.
- Congress should direct NHTSA to evaluate the injury reduction and lives saved from requiring new passenger cars to be equipped with side and head air bags as standard equipment to protect passengers in a crash with a larger, higher and more aggressively designed vehicle. The Insurance Institute for Highway Safety and the Alliance of Automobile Manufacturers are already recommending these air bags but we are concerned that we will not see them as standard equipment in vehicles but instead they will be "optional" equipment, resulting in their availability to more affluent car buyers getting the protection they need in a collision with an SUV or pickup.

4. Recommendations for getting NHTSA to evaluate technologies and evaluate their ability to prevent backover injuries and deaths and other injuries and deaths to children in and around cars

Though it has the authority to do so, NHTSA inexplicably has never kept statistics on noncrash, nontraffic incidents, especially in driveways of homes or other private property. Safety advocates have met with NHTSA officials for over five years to call this matter to the agency's attention, but little has changed. As a result, the apparent growth in the number of incidents in which small children have been backed over and killed, usually by a parent in their own driveways, has not been effectively documented by NHTSA. The California nonprofit safety group, KIDS 'N CARS, does, however, collect these data and in 2002, KIDS 'N CARS documented just over one child a week being backed over and killed in the US. KIDS 'N CARS has documented 294 incidents in the U.S. in the past ten years where young children were injured or killed by vehicles backing up. A death occurred in 179 of the 294 document cases. The majority of victims were one year olds and over 57 percent of those incidents involved a larger size vehicle like an SUV or pickup truck. CU believes that technology holds the solution to preventing these terrible tragedies and that NHTSA could put in place the necessary regulatory steps to help prevent these tragedies, but history also suggests that unless Congress directs NHTSA to take on this problem, not only of backing over incidents but other dangers to children in and around cars, the agency will simply not make this children's safety issue a priority. Therefore, CU recommends that Congress take the following steps:

- Require NHTSA to begin keeping track of data regarding injury and death to children in and around motor vehicles.

- Require NHTSA to test backup warning devices, set performance standards for these devices, and make them standard equipment on SUVs and pickup trucks in the next 2 years.
- Require NHTSA to finalize a rule on power windows and sunroofs to insure all such devices have auto reverse and push down/pick up window switches. (Only the big three auto makers still make windows without auto reverse feature) Last year, four children were strangled in power windows and countless others suffered injuries to head, neck, and fingers
- Require NHTSA to study and evaluate technology developed by General Motors, National Aeronautics and Space Administration and other aftermarket technologies that warn parents when a child has been left inside a vehicle, often by a conscientious parent who has changed his or her routine.

Enhanced Consumer Information

Consumers Union knows from publishing comparative information regularly to our readers that consumers are hungry for such information and use it to guide their purchasing decisions. CU therefore agrees with Advocates for Highway and Auto Safety and other safety advocates that comparative ratings of vehicle crashworthiness would assist consumers in making safer purchase decisions. We therefore support legislative efforts to require NHTSA to develop a crashworthiness safety label for all new motor vehicles similar to the EPA energy efficiency rating and prominently display that information to the buying public for all new passenger vehicles.

May 21, 2003

Respectfully submitted,

Consumers Union

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED TO JEFFREY RUNGE

Question 1. SAFETEA would reward a State with one times the portion of their respective section 402 funds if it adopted primary seatbelt enforcement laws before the end of 2002. However, for states that adopt primary seatbelt laws after December 31, 2002, the reward is equal to 5 times that amount. It seems that we would be penalizing states for early action. How did NHTSA arrive at this 500 percent difference—Is it an arbitrary number?

Question 1a. Do you believe it is fair that a State which has already adopted a primary seatbelt law should not be rewarded the same amount, or an amount closer to that which would be received by states that have not yet acted on their own in enacting primary seatbelt laws?

Answer. The proposal to award states grants equaling 5 times their Section 402 allocations for Fiscal Year (FY) 2003 for enacting primary safety belt laws subsequent to December 31, 2002, reflects the fact that 32 states still do not have primary laws. Those states, in which slightly less than half of Americans reside, did not respond to the less direct inducements of TEA-21 to pass primary legislation. Indeed, since enactment of TEA-21, only four states (Alabama, Michigan, New Jersey and Washington) passed primary laws that apply to all passenger motor vehicles. The Agency believes that a onetime grant equal to 5 times the Section 402 allocation for FY 2003 will be a powerful motivator that ultimately will extend primary law coverage to all or nearly all Americans.

As for the states that have had primary laws since December 31, 2002 or earlier, the Agency believes that the proposed one-time grant equal to one times their Section 402 allocation for FY 2003 is an appropriate reward for their early, exemplary work, since they have already received significant awards under TEA-21. During the span of the TEA-21 authorization, the 18 states, Puerto Rico and the District of Columbia (DC) with primary laws received substantial grants under the Section 157 Incentive program, due to the higher safety belt use rates associated with primary laws. Those states, with slightly more than half the Nation's population, shared approximately \$182 million of the \$221 million in 157 Incentive funds dis-

tributed from FY 1999 through FY 2003, or about 82 percent of the total. In addition, the 18 states, Puerto Rico, DC and the four territories would share nearly \$80 million in one-time Primary Safety Belt Law grants under the SAFETEA proposal. Thus, a total of about \$262 million either already has been, or would be, awarded to the 24 jurisdictions with primary laws in effect prior to December 31, 2002.

Question 2. NHTSA has pointed to the absence of seatbelt use as a significant factor, which contributes to occupant fatalities and injuries during motor vehicle crashes. In your opinion, what are the advantages and disadvantages of requiring all states to enact primary safety belt laws?

Answer. Passing primary safety belt laws in every State would save hundreds of lives and prevent tens of thousands of injuries each year. Safety belts are the single most effective safety device in vehicles today. In 2001, safety belts prevented 13,274 fatalities and more than 500,000 injuries. The economic and societal costs associated with motor vehicle crashes also are greatly reduced with the enactment of primary safety belt laws.

Primary laws are proven to increase safety belt use. In 2002, the average belt use rate among primary law states was 11 percentage points higher than in states with secondary laws. This is critical because for every percentage point increase in National safety belt use, approximately 250 lives are saved, 7,000 injuries are prevented and more than \$700,000 is saved in injury related costs.

Primary laws are effective because they are more enforceable than secondary laws, and the general public is more likely to buckle up when there is the possibility of receiving a citation for not doing so. Support for primary safety belt laws can be found throughout communities and across the Nation. However, when objections do arise they tend to focus on concerns related to differential enforcement and individual rights. Differential enforcement is the term used for alleged malpractice by law enforcement officers, singling out vehicles driven by a citizen based purely on race or ethnicity. In-depth studies of primary enforcement laws conducted in various communities found no evidence to show any shift in enforcement patterns that could be interpreted as harassment or differential enforcement. With regard to individual rights, the discussion needs to be balanced with the issue of personal responsibility. Most people are willing to accept the degree of control imposed by traffic laws because they recognize the potential societal impact of noncompliance and their own responsibility to protect themselves and others from serious harm.

The advantages of primary safety belt laws far outweigh any objections that have arisen. The Department of Transportation recognizes this and recently proposed under the Safe, Accountable, Flexible and Efficient Transportation Equity Act (SAFETEA) of 2003, a safety belt performance program that will promote the enactment of primary safety belt use laws in all states and the increase of safety belt use rates across the country.

Question 3. Regarding the SAFETEA discretionary program of \$50 million to combat impaired driving, how many states does NHTSA believe would qualify for this funding?

Question 3a. Why shouldn't we instead work to improve the Section 410 program by revising the current criteria, which now helps about 35 states, rather than implementing your proposed discretionary program, which may not help as many?

Question 3b. Under the proposed new discretionary program, how does NHTSA intend to join in partnership with the states and help them improve their alcohol countermeasure programs without becoming too involved managing the State programs?

Answer. The impaired driving grant program under SAFETEA would focus significant resources on up to ten states with particularly high numbers or rates of alcohol-related fatalities. States differ widely with regard to the severity of the impaired driving problem. In 2001, State alcohol-related fatality numbers ranged from 35 to 1,789, while rates varied from .29 to 1.38 per 100 million vehicle miles traveled. The Department believes that the greatest potential impact on the National impaired driving problem can be realized by working intensely with those states that are contributing the greatest share of fatalities.

The Section 410 program does not provide for the type of focused, data-driven impaired driving effort needed to resume a downward trend in impaired driving fatalities. SAFETEA's new impaired discretionary grant program will allow NHTSA to focus resources directly on states with particularly severe impaired driving problems. By identifying the root causes of individual states' impaired driving weaknesses, based on sound problem identification, states can take the critical steps needed to deal with this serious highway safety hazard. This proposal builds on the performance-based approach adopted by the agency for the Section 402 program. That approach calls for directing scarce resources at the most significant problem

areas. Resources targeted on the most pressing alcohol problem areas have an increased likelihood of leading to reductions in alcohol-related fatalities and injuries.

NHTSA will work closely with the states in the new grant program, providing technical and programmatic assistance to assess their impaired driving problem, identify appropriate countermeasures, and develop strategies for implementation. NHTSA intends to provide services such as coordinating visitations by teams of National experts to conduct in-depth problem and program assessments. NHTSA will also work with these states to develop plans for implementing programs, based on these assessments. However, implementation of these plans will be the states' responsibility.

Question 4. The Administration is not proposing any rulemakings related to vehicle performance and safety. How do you defend this lack of administrative action given the critical safety issues involving vehicle rollover and compatibility?

Answer. NHTSA did not propose any mandated rulemaking actions in SAFETEA because we are proactively addressing the critical safety problems of rollover and compatibility, and other important safety issues. Given that SAFETEA [already] addresses a broad range of highway infrastructure and driver behavior programs, NHTSA believes that issues related to potential changes to its vehicle programs should be addressed in a separate vehicle reauthorization bill rather than SAFETEA.

There is no lack of administrative action in addressing the critical safety areas facing the Nation. NHTSA is undertaking rulemaking actions on a broad spectrum of vehicle safety issues. In the areas of vehicle rollover and compatibility, which were the focus of your question, the agency published on June 13, 2003 the reports by its Integrated Project Teams on Rollover and Compatibility. Those reports identify the current actions and new strategies that NHTSA is undertaking in rulemaking and consumer information, further defined in the milestones below:

Rollover

- Final rule on new light vehicle tire standard—2003
- Part 2 of the final rule for light vehicle tire pressure monitoring systems (TPMS)—2005
- Final rule including dynamic rollover in Rollover NCAP—2003
- Proposed upgrade of door lock and latch systems—2004
- Proposed upgrade of roof crush standard—2004

Compatibility

- Proposals to reduce glare from light truck headlamps—2004
- Proposal to upgrade side impact protection—2003/2004
- Request for comments on new offset frontal crash test requirement—2003

Question 5. As you know, this Committee is very concerned about SUV rollover and vehicle compatibility issues. Can we have your commitment that you will provide this committee with a rulemaking agenda that outlines exactly which rulemakings are going to be issued, when the notices of proposed rulemaking are going to come out, and specific dates and timetables for action so we will have an appropriate regulatory strategy to deal with these issues?

Answer. NHTSA is undertaking rulemaking actions on a broad spectrum of vehicle safety issues. Many of them will culminate in published notices of proposed rulemaking (NPRM) and final rules in the near term (2003–4). In other areas, there are active research programs underway that will produce the information to publish notices or final rules in the 2005–6 time frame. Rollover and compatibility are two of NHTSA's top priorities, and we are committed to solving these critical problems. On June 13, 2003, the agency's Rollover and Compatibility Integrated Project Teams reports were published in the Federal Register. These reports outline in general what the agency is currently doing and new strategies to address these problems. The answers below address your question concerning specific planned research and rulemaking actions.

Rollover

Rollover crashes are extremely dangerous events. Eight percent of light vehicles (passenger cars, pickups, vans, and sport utility vehicles (SUVs)) in crashes roll over, yet 21 percent of seriously injured occupants and 31 percent of occupant fatalities occur in rollovers. In 2001, 10,138 people were killed as occupants of light vehicles in rollover crashes. Of those, 8,407 were killed in single-vehicle rollover crashes. Nearly 30,000 people are seriously injured in rollover crashes each year. Seventy-eight percent of the people who died in single-vehicle rollover crashes were not

wearing their vehicle safety belt, and 64 percent were partially or completely ejected from the vehicle (including 53 percent who were completely ejected). NHTSA is committed to reducing the number of rollover crashes and reducing the deaths and injuries when those crashes do occur. In addition to actions targeted at the belt-wearing behavior of vehicle occupants, specific rulemaking and consumer information milestones to address light vehicle rollover (from the list above) are:

- Final rule on new light vehicle tire standard, FMVSS No.139 by the end of this month (June 2003)
- Part 2 of the final rule for light vehicle tire pressure monitoring systems (TPMS) in 2005
- Final Rule, Dynamic Rollover Rating Program for NCAP in 2003
- Research in 2003–4 to evaluate the effectiveness of electronic stability control in preventing single vehicle crashes, with a rulemaking decision in 2005
- NPRM to upgrade door systems, FMVSS No. 206 in 2004
- NPRM to upgrade FMVSS No. 216 roof crush test procedure in 2004, with final action in 2005

Compatibility

The number of fatalities from collisions between a car and an LTV demonstrates a strong upward trend starting in 1983 and tracks the trends in LTV sales and registrations. This increase in LTV sales also has important implications for vehicle crashworthiness, glare initiatives, and roadside hardware. The Compatibility IPT report demonstrates that in frontal crashes involving a car and a LTV, there are almost 1,000 more fatalities in the cars than in the LTVs. In the case of cars struck in the side by LTVs, there are almost 2,000 more fatalities in the struck cars than the striking LTVs. For driver fatalities, the fatality risk in a car-LTV frontal crash is four times higher for the car driver than the LTV driver and the results are even more dramatic for side impact crashes. The driver in a car struck in the side by another car has an eight times greater fatality risk than the driver in the striking car compared to a twenty-nine times greater risk when the striking vehicle is an LTV. Specific rulemaking and consumer information milestones to address incompatibility are:

- NPRM on headlighting glare reduction related to headlamp mounting height in 2004, with final rule in 2005–6.
- Final regulatory action for offset frontal crash test requirements in 2004 (following a Request for Comments in 2003)
- NPRM to upgrade FMVSS No. 214 side impact protection in 2003, with final rule in 2004–5.
- The final decision on a summary safety score for consumer information in 2005.

Question 6. Dr. Runge, you have expressed concern with the safety issues related to vehicle compatibility and rollover and indicated that NHTSA would monitor this effort closely and undertake its own research and analysis of these safety problems. What is NHTSA's budget request for research and analysis?

Question 6a. Are these resources sufficient for NHTSA to provide effective oversight over an issue that is highly complicated and involves potentially hundreds of vehicle designs.

Answer. Yes, the Agency believes the requested funds are sufficient. The budget request for vehicle compatibility research is \$1.45 million. However, this sum will be augmented with another \$800 thousand using the requested research funding of the closely associated efforts for frontal and side crash protection. The crash testing planned under these research efforts will be carefully coordinated so as to provide valuable data for the compatibility research program. Additionally, the Agency participates in the International Harmonized Research Activities' Vehicle Compatibility Working Group. The research among the participating members from European and Asia-Pacific countries and Canada is closely coordinated with the ongoing research in various jurisdictions.

The budget request for rollover is \$2.61 million. The Agency previously has funded \$4.5 million over a three-year period for the development of a dynamic rollover propensity test procedure. This effort has been completed. A large part of the requested funding will be used to conduct NCAP tests utilizing the dynamic rollover propensity test procedure already developed as well as to conduct tests to measure static stability factors. Among the planned research activities is the evaluation of the benefits of dynamic stability control systems and other related technologies. Finally, research will continue for preventing ejection from rollover crashes.

The Agency will continue to leverage the research funding by maintaining close coordination with others. The Agency is also exploring the feasibility of initiating cooperative research programs with universities and other interested parties.

Question 7. It is my understanding that NHTSA is investigating a significant overhaul of the current CAFE system, perhaps to a highly complex weight or attribute-based system. Can you comment on that?

Question 7a. What is the process NHTSA is undertaking to gather the detailed data needed to investigate these difficult questions?

Question 7b. What is the expected time line for NHTSA to perform an independent analysis of the CAFE system? Would additional funding be necessary?

Answer. In February 2002, Secretary Mineta sent a letter to Congress expressing the Department's intent to examine reforms to the CAFE system and requesting additional statutory authority to implement reforms. It is the Administration's intent to identify and implement reforms to the CAFE system that will facilitate improvements in fuel economy without compromising motor vehicle safety or jobs. Accordingly, NHTSA is presently investigating a number of potential reforms to the CAFE system, including attribute-based standards. Attribute-based standards, particularly weight-based standards, was among the reforms recommended in the National Academy of Sciences (NAS) CAFE report.

Later this year, NHTSA will issue a Request for Comments on alternative approaches for reforming the structure of CAFE within the agency's current statutory authority. This document will solicit data from manufacturers as well as comments from the public. The agency is currently coordinating data collection activities with the Environmental Protection Agency, the Department of Energy, and various experts in the field who have been exploring CAFE reforms. As recommended in the NAS report, NHTSA is also updating its 1997 study of the relationship between vehicle size and safety. The new study, which is nearing completion, will provide information useful in determining how the CAFE system should be restructured.

The agency's analysis of CAFE reform alternatives will be conducted during FYs 2003 and 2004. Accordingly, a significant portion of our FY 2003 and 2004 budget is devoted to reform efforts. This includes an additional \$250,000 in FY 2004 that was initially allocated to performing an environmental impact statement, which is now not necessary.

Question 8. Prior to 1998, NHTSA took a more directive approach with its involvement with the states. Since that time, NHTSA has moved to a "Performance-Based" approach that relies on states setting goals and working toward those goals. Dr. Runge, how effective do you believe the new performance management approach has been? Do you have concerns that the change in less micro-management has not had a more positive impact on state performance?

Answer. NHTSA has traditionally pursued a partnership approach in working with the states on implementing and evaluating highway safety programs. The move to performance-based highway safety programs in 1998 represented the natural evolution of a mature program with a long history of problem identification and well established, long-standing priority program emphasis areas. NHTSA has continued to provide program and project monitoring, but reflecting congressional guidance and the natural evolution of the program, has taken a less federally directive approach in providing oversight of State program activities. Recently, in conjunction with the Governor's Highway Safety Association, the agency initiated development of specific criteria that would lead to provision of additional oversight by NHTSA through management reviews and improvement plans. This effort reflects the findings of a recent GAO Report (GAO-03-474, May 2003), which determined there was uneven program oversight of State highway safety programs by NHTSA field offices. On balance, the move to a performance-based program has resulted in program improvements. Working with our state partners, the agency is seeking to resolve program management issues of concern to both parties.

Question 9. NHTSA and State safety officials are prohibited from lobbying State legislators on pending highway safety legislation. Do you believe that this has had an adverse impact on the passage of new highway safety laws?

Answer. The prohibition on lobbying has not itself had an adverse affect on enactment of State highway safety laws but had a chilling effect on the ability of the agency and our State partners to provide technical assistance, including advantages and disadvantages, of specific highway safety legislative proposals pending in State legislatures. As organizations charged with responsibility for reducing traffic crash related fatalities and injuries nationally and in the states, NHTSA and our State Highway Safety Office colleagues often have technical knowledge and expertise to offer on highway safety legislation. Once a specific bill is introduced, the restrictions

on lobbying can hinder the ability of our agencies to offer detailed, specific recommendations regarding safety impacts.

Question 10. Although considerable progress has been made over the last decades in reducing highway fatalities, why do you believe the number of fatalities has recently increased?

Answer. The number of traffic-related fatalities has increased somewhat, based on the latest estimates. In 2002, an estimated 6 million crashes were reported to law enforcement agencies, with nearly 43,000 people killed, and 2.9 million people injured.

Recently, during the past 6 years, the total fatality count is up about 2 percent.

1997	1998	1999	2000	2001	2002
42,013	41,501	41,717	41,945	42,116	42,850

Traffic volume has increased about 10 percent.

1997	1998	1999	2000	2001	2002
2.56 T miles	2.63 T miles	2.69 T miles	2.75 T miles	2.78 T miles	2.83 T miles

T=Trillion

Motorcycle rider deaths have increased 50 percent (about 1,000 deaths) during this time period.

1997	1998	1999	2000	2001	2002
2,116	2,294	2,483	2,897	3,181	3,276

Occupant deaths in rollover crashes of passenger vehicles continue to increase.

1997	1998	1999	2000	2001	2002
9,527	9,773	10,140	9,959	10,130	10,626

Recently, the number of persons killed in alcohol-related crashes has increased about 1,000.

1997	1998	1999	2000	2001	2002
16,711	16,673	16,572	17,380	17,448	17,970

It's not all bad news, pedestrian death have fallen recently.

1997	1998	1999	2000	2001	2002
5,321	5,228	4,939	4,763	4,882	4,776

Occupant deaths of children age 0 through 3 have also fallen about 100 recently.

1997	1998	1999	2000	2001	2002
466	447	458	451	409	380

Large truck-related fatalities have fallen recently.

1997	1998	1999	2000	2001	2002
5,398	5,395	5,380	5,282	5,082	4,902

Note: Source: NHTSA, NCSA
2002 data are from the 2002 Early Estimate file.

Question 11. Can you please comment on the efficacy of TEA-21 on the traffic fatality rates of Native Americans living on reservation and trust land? What measures are included in SAFETEA to address the ever-increasing problem of alcohol-related traffic crashes and traffic fatalities in Indian country?

Answer. Under TEA-21, NHTSA worked with the Bureau of Indian Affairs (BIA) and tribal representatives to improve the accuracy, completeness and timeliness of reporting of crashes and fatalities on reservation and trust land. Absent a significantly improved crash data system, it is not possible to determine traffic fatality rates of Native Americans living on reservation and trust land. According to CDC's Injury Mortality Reports, annual per capita motor vehicle fatality rates for Native Americans has been between 30 and 32 deaths per 100,000 population. The overall national rate for all races is approximately 15 per 100,000. Largely due to funds

provided under Section 411 of TEA-21, BIA, with NHTSA's assistance, developed a strategic plan for improving tribal crash data systems. With the significantly greater funds that would be available under the proposed Section 412 of SAFETEA, the Agency anticipates that BIA and the tribes would be able to make substantial progress in implementing the strategic plan.

With regard to the specific issue of reducing alcohol-related crashes and fatalities, under provisions of SAFETEA, the BIA will continue to receive an annual formula grant apportionment of not less than $\frac{3}{4}$ of 1 percent of the program's total apportionment. TEA-21 increased Section 402's highway safety funding formula for the Tribes to $\frac{3}{4}$ of 1 percent from $\frac{1}{2}$ of 1 percent of the total apportionment for the section. Any or all of this basic formula apportionment could be used for increasing safety belt use and prevention of impaired driving. Over SAFETEA's 6-year authorization period, \$7.875 million will be available to the BIA in basic formula grants alone. Additionally, data improvements may facilitate the BIA's participation in SAFETEA's performance-based incentive grant programs and provide additional funding that may be used to address impaired driving.

Question 12. A recent GAO report concludes that behavioral factors are the leading cause of most traffic fatalities. Outline for us how SAFETEA builds upon the success of existing programs rather than simply restructuring them? What requests does NHTSA make in SAFETEA to bolster existing behavioral programs?

Answer. SAFETEA builds upon and expands the performance-based management of highway safety programs that has been universally adopted by the states since 1998. Under TEA-21, the Section 402 formula program has been performance based, but incentive grant funds were awarded primarily based on State implementation of specified laws or programs; only a few select criteria in the Section 410 Alcohol Incentive Grant Program and Section 157 Safety Belt Use Incentive Grant program were performance-based. SAFETEA is the logical extension of the Section 402 performance-based formula program. Under SAFETEA's consolidated Section 402 program, the majority of incentive funds will be awarded based on State performance.

SAFETEA would also build upon the proven effectiveness of highly visible enforcement of strong safety belt laws, by providing \$100 million each year to encourage and reward states that enact primary safety belt laws, and by providing performance incentive grants, starting at \$25 million and growing to \$34 million, to states that achieve high levels of belt use.

SAFETEA would continue and expand NHTSA's renewed emphasis on impaired driving, by allocating \$50 million per year to bolster the impaired driving countermeasures in states that have high rates or high totals of alcohol-related fatalities.

SAFETEA would accelerate the process of improving State crash data systems to ensure better problem identification, performance measurement and program management. Under TEA-21, the Section 411 grants produced strategic plans for traffic records improvements in nearly all states. Under the proposed Section 412 of SAFETEA, States would receive the resources they need to carry out those strategic plans.

The Agency also believes that SAFETEA would build upon and improve the intermodal flexibility that was established under TEA-21, permitting states to apply their resources to both behavioral programs and infrastructure enhancements, as their needs dictate.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED TO PETER GUERRERO

Question 1. Your statement mentions three factors that contribute to traffic crashes: human, environment, and vehicular. Vehicles are the least of the three causes, yet we've heard a lot recently about SUV safety. In proportion to all traffic safety problems, how much of a concern are SUVs?

Answer. Sport Utility Vehicle (SUV) safety is a concern primarily because they are more likely to rollover in a crash when compared to passenger cars, vans, and pickup trucks. Rollover crashes are particularly serious because they are more likely to result in fatalities than other types of crashes. We found, for example, that SUVs were over three times more likely to roll over in a crash than passenger cars. Our analysis of NHTSA crash data also found that SUVs rolled over in fatal crashes 35 percent of the time compared with 16 percent of the time in passenger cars. In 2002, SUV rollovers resulted in 2,353 occupant fatalities, by NHTSA's estimate, or about 5.5 percent of all fatalities. In addition, NHTSA recently concluded that, despite declines in passenger car occupant fatalities, the increasing influence of light truck and SUV fatal crashes in general, and rollover crashes in particular, was instrumental in the lack of progress in reducing traffic fatalities in 2002.

In 2003, the Alliance of Automobile Manufacturers, a trade group that represents the three main major U.S. automobile manufacturers and a number of foreign manufacturers, published analyses examining occupant fatality rates between vehicle types. It found that in 2001, SUVs had a slightly higher overall occupant fatality rate than had passenger cars—16.25 and 15.70 per 100,000 registered vehicles, respectively. The Alliance also points out that 72 percent of people killed in SUV rollover crashes were not wearing safety belts and that 35 percent of SUV single-vehicle rollover fatalities were alcohol-related.

Question 2. GAO's recent report entitled, "Better Guidance Could Improve Oversight of State Highway Safety Programs," as mentioned in your testimony, raised issues regarding NHTSA's oversight of state highway safety programs. How would you suggest NHTSA improve in this area?

Answer. We found that NHTSA is making inconsistent and limited use of the oversight tools that it has to ensure states programs are operating within guidelines and are achieving desired results. For example, NHTSA regions can conduct management reviews to help improve and enhance the financial and operational management of state programs. In conducting these reviews, a team of NHTSA regional staff visits a state and examines such items as its operations and staffing, program management, financial management, and selected programs like impaired driving, occupant protection, public information and education, and outreach. However, we found that there was no written guidance on when to perform management reviews. As a result, management reviews were not being conducted consistently—some regions had goals of doing them every 2 years while others conducted them only when requested by a state.

Similarly, we found that the NHTSA regional offices are making limited and inconsistent use of improvement plans. According to regulations, if a NHTSA regional office finds that a state is not making progress towards its highway safety goals, NHTSA and the state are to develop an improvement plan to address the shortcomings. The regulations call for the plan to detail strategies, program activities, and funding targets to meet the defined goals. However, NHTSA regional offices have made limited use of improvement plans to help address the states' highway safety performance. Since 1998, only 7 improvement plans have been developed in 3 of NHTSA's 10 regional offices. In addition, we found that the regional offices have made inconsistent use improvement plans. For example, we found that highway safety performance of a number of states that were not operating under improvement plans was worse than the performance of other states that were under such plans. For example, we found that the rate of alcohol-related fatalities increased from 1997 through 2001 in 14 states and that for half of these states the alcohol-related fatality rate also exceeded the national rate. Only one of these seven states was on an improvement plan to reduce alcohol-related fatalities. We found that the limited and inconsistent use of improvement plans is due to a lack of specificity in criteria for requiring such plans. NHTSA guidance says simply that these plans should be developed when a state is not making progress towards its highway safety goals.

We made recommendations to the Secretary of Transportation to improve the use of management reviews and improvement plans by providing more specific guidance to the regional offices on when it is appropriate to use them. The guidance for using the improvement plans should include a consistent means of measuring progress toward meeting established highway safety goals. In responding to our report, NHTSA officials said they have begun taking action to develop criteria and guidance on when field offices should use these management tools.

Question 3. Do you think that a consolidated grant application process for the states would have a noticeable impact on their ability to obtain increased funding? What is the best way to consolidate the grant program? Should we follow the GHSA proposal, or that outlined in SAFETEA? Do you have any recommendations to improve SAFETEA and improve traffic safety that have not been mentioned, or that stand out in your mind as superior to the others?

Answer. A consolidated grant process would help ease the administrative burden on the states, and states with very small highway safety offices and limited resources would benefit. A consolidated program also would allow states to devote more resources to project oversight and evaluation, which would also be a benefit.

The SAFETEA and GHSA proposals for reauthorization have some significant differences that could affect the decision to select one over the other. The SAFETEA proposal provides for partial consolidation of the grant programs, but allows states considerable flexibility in how the funds could be used, including transferring NHTSA program funds to highway safety construction. The GHSA proposal contains a greater degree of consolidation, but does not provide for the transfer of NHTSA

funds to construction programs. Thus, the SAFETEA proposal gives the states more flexibility in how the funds may be used, but the GHSA proposal goes farther in simplifying the administration of the program by the states. Finally, the SAFETEA proposal includes a new safety belt sanction, while GHSA is opposed to any new sanctions.

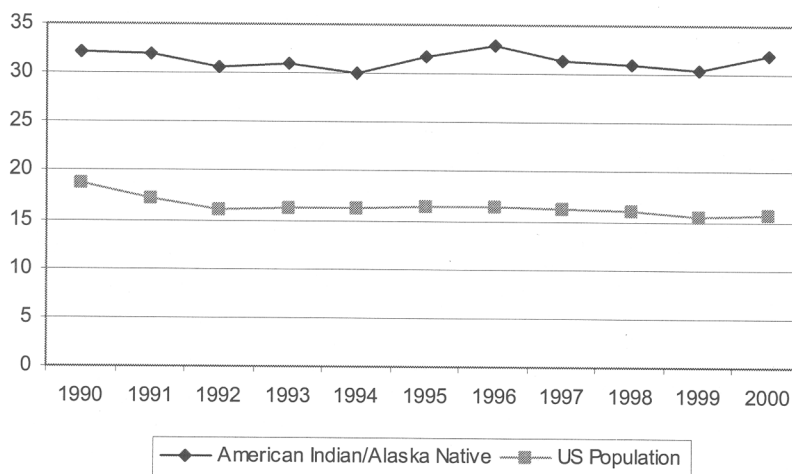
As we pointed out in our report, when 34 states were given the option of using highway safety funds for either road construction or behavioral programs (programs to reduce drunk driving), more than two-thirds of funds were spent on construction. The Administration's SAFETEA proposal, while promoting greater flexibility for states to decide how to spend Federal funds, could have the unintended effect of depleting behavioral programs of funds needed to make continued progress in reducing traffic fatalities.

Motorcycle safety is one area that SAFETEA mentions but GHSA's proposal does not directly address. Motorcycle deaths have increased each year since reaching an historic low in 1997. In 2002, 3,276 motorcyclists were killed, an increase of over 54 percent between 1997 and 2002. Without the increase in motorcycle fatalities, overall highway fatalities would have experienced a decrease of about 2.6 percent. NHTSA has outlined an approach to motorcycle safety in three areas: crash prevention, injury mitigation, and emergency response. Crash prevention goals are focused on factors that contribute to crashes—operator fitness, experience, and training, and licensing. Injury mitigation research would stress the use of protective gear, including helmets. Emergency response emphasizes the importance of first response medical care. SAFETEA would support NHTSA's initiatives in these areas through general performance grants. These grants would provide incentive funds to states based on performance in three categories: (1) motor vehicle crash fatalities, (2) alcohol-related crash fatalities, and (3) motorcycle, bicycle, and pedestrian crash fatalities.

Question 4. Can you please comment on the efficacy of TEA-21 on the traffic fatality rates of Native Americans living on reservation and trust land?

Answer. According to the Bureau of Indian Affairs' *Indian Highway Safety Program* plan for Fiscal Year 2003, the rate of highway-related injuries and fatalities on American Indian Reservations is significantly higher than State and National rates. While our recent reports did not address the issue of Native American traffic fatalities and NHTSA's fatality and accident databases do not capture this type of information, the National Center for Injury Prevention and Control of the Centers for Disease Control and Prevention has reported on deaths of American Indians in unintentional motor vehicle crashes. As shown in figure 1, motor vehicle deaths for American Indians are higher than the rate for the U.S. population as a whole. (See fig. 1.)

Figure 1: Motor Vehicle Fatalities per 100,000 People

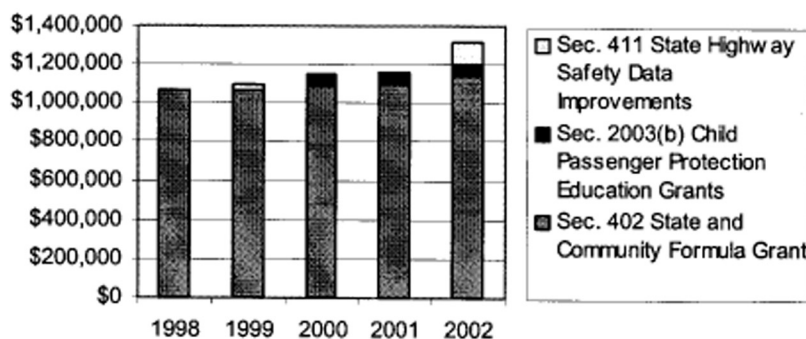


Source: Centers for Disease Control and Prevention

As we reported, about \$2 billion has been provided over the last 5 years for highway safety programs under TEA-21. During this period, the Indian Highway Safety

Program received less than half a percent of this total, or \$5.8 million. NHTSA provided \$1.07 million for the BIA's Indian Highway Safety Program in 1998; and by 2002, funding for this program rose to \$1.32 million. Over 94 percent of these funds came as annual Section 402 State and Community Formula Grant Program funding. The program's remaining funds came from two of TEA-21's seven incentive grants: Section 2003(b) Child Passenger Protection Education Grants—beginning in 2000, and Section 411 State Highway Safety Data Improvement grants—mostly in 2002. (See fig. 2.)

Figure 2: NHTSA Funding for BIA's Indian Highway Safety Program, Fiscal Years 1998 through 2002



Source: GAO presentation of NHTSA data.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED TO JACQUELINE S. GILLIAN

Question 1. In your testimony, you indicate that there was an increase in motor vehicle fatalities in nearly every category of crashes. Does this mean the number of overall motor vehicle fatalities has increased, or the fatalities per vehicle miles traveled have increased?

Answer. The 2002 Early Assessment figures released by the National Highway Traffic Safety Administration's (NHTSA) National Center for Statistics and Analysis in April 2003 shows the following:

- The number of persons killed in motor vehicle traffic crashes increased to 42,850, the highest level since 1990. The increase was 1.7 percent over the number killed in 2001. Within this general finding were the following specific changes from 2001 by category:
- Alcohol-related deaths increased.
- Passenger vehicle occupant deaths in rollovers increased. This is especially dramatic for sport utility vehicles (SUVs)—nearly 10 percent more people died in SUV rollovers in 2002 as compared with the previous year.
- The number of intersection and intersection-related deaths increased.
- Passenger vehicle occupant deaths in two-vehicle crashes involving a pickup truck, van, or SUV increased.
- Motorcyclist deaths increased.
- Pedestrian deaths decreased.
- Large truck crash-involved deaths decreased. However, more large truck occupants died in these crashes in 2002 than in 2001, particularly in multi-vehicle collisions.
- Deaths of children 0–7 years of age decreased while deaths of children 8–15 years increased.
- Deaths of young drivers 16–20 years of age increased.
- The overall fatal crash rate using 100 million vehicle-miles-traveled (VMT) as the exposure denominator remained the same as 2001 at 1.51 deaths per 100 million VMT. NHTSA has not yet disaggregated VMT or other exposure measures by type of crash or by age of persons involved in crashes; only the overall, national fatal crash rate is available.

The answer to the question then is an emphatic yes. The overall number of motor vehicle fatalities has increased and has done so each year since 1998. In fact, highway fatalities in 2002 were the highest in more than a decade. Because each year there is an increase in VMT, the fatality rate has not increased but it has also not decreased. In fact, the fatality rate has become stagnant, with only marginal improvement since 1991. If this situation applied to air travel, that is, if there were more deaths and crashes each year because more planes were flying more miles, there would be a hue and cry from the American public and Congress regardless of any change in the fatality rate.

Question 1a. Given that every year there are more cars on the road, and that terrorism fears have caused more motorists to drive rather than fly, is it safe to assume that fatalities will always rise each year if all things remain constant?

Answer. Carefully selected vehicle safety design and performance regulation, coupled with better highway design and human factors management, such as requiring safety belt use, countering driver fatigue and alcohol/substance abuse, and reducing in-vehicle driver distraction can easily result in increased vehicle-miles-traveled by more vehicles each year, but a lower crash death rate with fewer fatalities. Unfortunately, however, all things do not remain constant. The continuing displacement of passenger cars in the passenger vehicle fleet by SUVs, a consistent trend over more than a decade, has resulted in a distinct and deadly change in crash types to more motor vehicle deaths resulting from (a) the increased numbers and frequency of rollover crashes by these unstable, rollover-prone vehicles and (b) increased number and frequency of deaths from side impact crashes due especially to larger, heavier SUVs striking the sides of smaller, lighter cars. If the safety design and performance of light trucks and vans (LTVs), particularly SUVs, were properly controlled by careful safety regulation, both the number of deaths and the rate of deaths could decline each year.

Question 1b. Which of your recommendations would have the most significant impact on reducing traffic fatalities if enacted by Congress?

Answer. There are several recommendations that will have a significant impact on traffic fatality reduction when enacted.

- *Primary (or standard) enforcement* of state seat belt laws will increase seat belt use rates substantially, a critical factor for reducing fatalities and serious injuries since unbelted occupants comprise more than half of all traffic fatalities. Experience in state after state has shown that adoption of primary enforcement alone increases seat belt use rates by 10 to 15 percent. Unfortunately, in most states, the life-saving potential of primary enforcement of seat belt laws, and Federal incentive grants, have not motivated state legislatures to upgrade secondary enforcement laws to primary enforcement. Currently, 18 states and the District of Columbia have primary enforcement, while 31 states have only secondary enforcement and one state has no law requiring occupants to use seat belts at all. It is estimated that if all states adopted primary enforcement, that is, enforced the state seat belt law just like any other traffic infraction, thousands of additional lives could be saved each year.
- *Rollover crashes* have become a more important factor in highway fatalities over the years. In the 1980s, less than 5,000 deaths a year involved rollover crashes, in 2002 more than 10,000 traffic deaths involved vehicle rollover. A large part of the increase in the rollover problem stems from the design of LTVs, especially SUVs, that are built with a high center of gravity, narrow track-width, and are unstable particularly when fully loaded. Danger from rollover, and the number of fatalities, will continue to grow as a problem as LTVs, and particularly SUVs, increase as a proportion of the overall vehicle fleet. A rollover stability standard could potentially prevent the deaths of hundreds, if not thousands, of people each year.
- *Vehicle aggressivity*, or the lack of compatibility among different vehicle designs when they crash is a result of the mismatch in size, weight, height and other design features of LTVs and passenger cars. As the number and percentage of larger LTVs and SUVs in the vehicle fleet increase annually, so do the number of crashes in which a larger, heavier, higher LTV collides with a smaller, lighter, lower passenger car. In these crashes, the occupants of the car are far more likely to be killed than the occupant of the LTV. This mismatch already presents a substantial danger to passenger car occupants which will continue to increase as LTVs become a larger percentage of the vehicle fleet and are involved in more multi-vehicle crashes.
- *Drunk driving* related fatalities have recently been on the increase, and in 2002 alcohol or drugs were a factor in 42 percent of occupant fatalities. Thus, despite

historic improvements in the alcohol-related fatality statistics, further improvements in drunk and drugged driving behavior remain a critical area in which a significant impact in fatality reduction can be obtained.

Question 2. In recent years, progress in reducing highway fatalities has slowed despite a large investment of resources in highway safety. What do you see as the best strategies to reduce traffic deaths and injuries?

Answer. A substantial increase in Federal investment in funding motor vehicle and traffic safety programs is necessary. NHTSA's budget and program resources have increased little in actual purchasing power over the years, despite the fact that the number of registered vehicles, annual vehicle miles of travel, and complexity of the traffic safety and the highway environment have increased dramatically. The best approach is a systems engineering model that takes into account all aspects that contribute to traffic crashes and fatalities including the vehicle, the occupant, and the roadway (and environment), and the development of countermeasures to address the problems that contribute significantly to crashes and fatalities through prevention and crash avoidance (pre-crash), occupant protection (during the crash), and emergency response/medical treatment (post-crash).

Question 2a. Should the focus be on the behavioral aspects or on vehicle preference and safety?

Answer. Both. Traffic safety is a complex, multi-faceted issue that has no single solution. Moreover, driver (and occupant) behavior cannot be neatly separated from vehicle preference and safety. Obviously, improvements in behavior such as seat belt use can provide dramatic safety benefits to which the success of anti-drunk driving campaigns involving passage of strong laws and increased enforcement in the 1980s and 1990s can attest. However, behavior modification on a broad scale is expensive, resource intense, difficult to sustain for prolonged time periods, and they do not guarantee permanent improvements in behavior or safety. The recent increase in drunk-driving related fatalities may be a reflection of this. Behavior modification must be continually maintained and reinforced, and additional efforts must be made to reach each new generation of young drivers. At the same time, success in improving one or even a few types of behavior does not guarantee improvement in other driving-related behaviors that may be just as dangerous. Thus, targeted efforts at changing behavior have been successful and should be continued, especially to require seat belt use through adoption of primary enforcement laws and to combat drunk driving, but behavior modification is only a partial solution.

Designing vehicles with greater built-in safety, for both crash avoidance and occupant protection, can ensure traffic safety improvement regardless of individual behavior and the degree of success experienced through behavior modification efforts. Design and equipment improvements that build-in greater stability to reduce the incidence of rollovers, for example, or that make different types of vehicles less aggressive in multi-vehicle crashes, improve safety when crashes occur. This is necessary because improved behavior alone, even if largely successful, will not eliminate all crashes, and because crashes result from other factors such as road conditions, vehicle equipment defects, etc., not just driver behavior. This approach of trying to build-in crashworthiness, is taken from the model used in the health care field, where efforts to change at-risk behavior are not relied on exclusively when immunization to prevent disease is available.

Question 3. Is the amount of money spent on highway safety directly related to lives saved, if used correctly? In other words, does an increase in highway safety funding equate directly to lives saved?

Answer. Yes, if used correctly, there is a direct relationship between safety funding levels and lives saved. The relationship between funding levels and safety is the same for motor vehicles as for airline safety—greater investment in safety will result in fewer deaths. Current NHTSA funding levels, however, are not much higher than they were in 1980. See NHTSA historic budget chart [to be forwarded by fax]. Even though 95 percent of transportation fatalities, and 99 percent of transportation injuries occur on our Nation's roads, NHTSA receives less than one percent of the Department of Transportation (DOT) budget.

Question 3a. To what extent should we worry about a diminishing return when funding these safety programs?

Answer. Because funding for motor vehicle safety programs is low, compared to the overall U.S. DOT budget and expenditures on air transportation safety, there is no legitimate reason for concern that we are nearing the point of diminishing returns when it comes to funding motor vehicle safety programs. The issue is not that we are reaching the point of diminishing returns on safety expenditures but that factors that play a role in crashes, including increases in traffic volume, size, weight, and speed, as well as diverse designs and behavioral issues, have over-

whelmed the ability of NHTSA, law enforcement, and the safety community to respond appropriately due to budget limitations. In addition, major improvements in safety can still be achieved by reducing vehicle rollover, increasing the crash compatibility among the types of vehicles in the passenger fleet, developing feasible crash avoidance and warning technologies, increasing the national seat belt use rate, and reducing the incidence of drunk/drugged driving.

Question 4. What would be the cost passed on to consumers should your proposals for roof crush, safety labeling, and vehicle compatibility be adopted by Congress?

Answer. There is no fixed dollar figure for the vehicle safety proposals included in the testimony because each depends on the manner in which it is implemented by manufacturers and NHTSA. However, the costs are expected to be relatively small in comparison to the safety benefits for several reasons. First, a number of improvements are ready for use or have been introduced in more expensive vehicle lines. Mass production of these safety features for installation as standard equipment, rather than as options, would significantly lower the cost of production. Second, manufacturers are already conducting research and development on a host of different design issues and are already introducing certain changes to address vehicle compatibility issues. Thus, the costs associated with a number of changes, as well as the research and development costs for other improvements, have already been factored into the price of at least some vehicles by the manufacturers themselves. Third, any required changes could be introduced and implemented as manufacturers alter and redesign vehicle platforms, which lowers the burdens to manufacturers and the costs to consumers. Fourth, according to the industry, costs for many safety improvements, from seat belts, to air bags, to traction control systems were expected to be cost prohibitive but have proven to be cost-effective and reasonable when mass produced. Moreover, surveys consistently indicate that consumers are willing to pay for safety improvements. Lastly, in addition to the toll in deaths and injuries, motor vehicle crashes and mortality are already a huge economic burden to consumers. According to NHTSA, in 2000 the total cost of motor vehicle crashes in the U.S. was \$230.6 billion.

Question 4a. Do you propose incentives that would make it easier for automobile manufacturers to incorporate your proposed safety improvements to their vehicle production?

Answer. No specific additional industry incentives are necessary. First, safety is a public health issue and the responsibility of manufacturers. In order to achieve widespread safety benefits for the public at large, improvements should be built in to all vehicles not just in expensive models at the high-end of the market. Second, in many cases, the design knowledge and technology for improving safety is already developed, available, and on-the-shelf, so extensive research and development costs are not necessary. Finally, "safety sells," and manufacturers have been able to market higher-priced vehicle models on the basis of safety. In recent years, the average price of vehicles has increased for a number of reasons, and a larger proportion of the vehicle market now consists of high-priced LTVs and SUVs, and yet sales and profitability continue to increase. It appears that manufacturers have been able to pass on the costs of safety improvements to customers and do not need added incentives to improve safety.

Question 5. What can be done to improve safety belt usage by states such as Virginia where the votes defeat proposals to adopt primary safety belt laws?

Answer. Safety belt use rates in states such as Virginia would improve dramatically if the reauthorization of TEA-21 included a sanction for states that did not pass a primary enforcement safety belt law within a reasonable amount of time. Currently, only 18 states and the District of Columbia have primary enforcement laws. Most of these laws were passed in the mid-1980s through the mid-1990s. In the past three years, only two states (Washington and New Jersey) have enacted primary enforcement laws. The lesson from the enactment of a national .08 percent blood alcohol content (BAC) law in 2000 is instructive in this context: sanctions work. In the three years since .08 BAC was signed the number of states with a .08 BAC law jumped from 18 to 38 and the District of Columbia. That's an increase of 117 percent. There is every reason to believe that the pattern of state enactment of primary enforcement seat belt laws will follow that of .08 BAC laws.

Question 5a. Are incentives the only way to improve safety belt usage, or can public advertising campaigns make a difference?

Answer. As noted above, sanctions are crucial to the passage of primary enforcement safety belt laws, which are critical to increasing safety belt use rates. Incentives, therefore, are not an effective way to improve safety belt use rates. Public advertising campaigns can make a difference, but only in tandem with passage and strong enforcement of primary seat belt laws. People are more likely to change their

behavior in response to a public advertising campaign that is coupled with strong enforcement of a safety belt law than in response to a public service announcement alone. Secondary enforcement laws tie the hands of police because they can only be enforced if another traffic violation has occurred.

Question 6. Does your organization believe that rear-view monitors to aid drivers when reversing larger vehicles should be standard equipment in vehicles, or merely a safety option available to consumers?

Answer. Advocates generally regards rear visibility in the current vehicle fleet, both for passenger vehicles and for medium/heavy vehicles, to be poor and inadequate. Neither manufacturers nor NHTSA use safety performance principles to optimize rear visibility, especially for the rear view of the area immediately behind a vehicle when backing so that every driver can easily determine whether there is a child or other person in danger of being injured or killed in a backing incident. Backing incidents that take the lives of young children and elderly persons are more common than one might think because they are often not reported in state and national databases.

Advocates believes that a combination of advanced mirror designs, especially of aspheric mirrors, coupled with rear view imaging or detection technologies, should be required by NHTSA through the adoption of a performance standard that will facilitate the detection of persons immediately behind the rear ends of larger vehicles. We believe that these combined improvements in rear detection and visualization technologies should be required for vehicles both with and without rear windows because current vehicles even with rear windows do not permit a driver to see or to detect the presence of small children immediately behind a vehicle. Moreover, these improvements in visualization and detection to the rear of a motor vehicle for improving safety when backing can simultaneously be engineered to enhance both the side and rear fields of view of motor vehicles in forward motion, thereby improving the detection of nearby vehicles in the traffic stream.

In general, safety equipment that is proven to help avoid crashes, save lives, and reduce injuries should become standard equipment on all new vehicle models. Safety equipment will maximize life saving benefits only if it is installed throughout the vehicle fleet and in general use on all vehicles. Moreover, safety systems and equipment should not just be available to people with the means to afford high-end vehicle models and safer optional equipment.

Question 7. Considerable progress has been made over the last decades in reducing highway fatalities, but this progress has been slowed in the last few years. In fact, the number of fatalities has increased recently. What are the reasons for this spike?

Answer. The recent increase in traffic fatalities to 42,850 (2002 early assessment data), now at the highest total since 1990, is also reflected in the stagnant fatality rate that has remained at nearly the same level for a decade. Only marginal improvements in the overall traffic fatality rate have been achieved in that time period. (The fatality rate dropped to 1.7 per 100 million VMT in 1992, then to 1.6 in 1996, and to 1.5 in 1999, where it remains.) There are three reasons for this. First, funding levels for NHTSA's regulatory and traffic safety programs have increased only incrementally over the past decade. Safety programs have not been able to keep pace with the myriad of complex safety problems facing the nation, the change in the types of vehicle in the fleet, as well as annual increases in motor vehicle registration and vehicle miles traveled. Second, despite improvements that are saving hundreds of lives each year, including improved child safety requirements, increased seat belt use rates, and more widespread availability of air bags, other negative safety trends have emerged to offset the lives being saved. For example, rollover deaths have increased dramatically through the 1990s as the percentage of LTVs, and especially SUVs, have increased in the vehicle fleet. Likewise, deaths in multi-vehicle crashes in which LTVs are the striking vehicle have also increased with the greater percentage of LTVs in the vehicle fleet. Third, too many states lack some of the most important life-saving laws to address impaired driving, to protect teen drivers, to require seat belt and motorcycle helmet use, and to require that children be restrained in age appropriate restraints.

Question 8. The lack of progress in reducing highway fatalities is especially frustrating in light of the billions of dollars that have been spent on highway safety and infrastructure improvements under TEA-21. As we move forward and reauthorize these programs, where should we make future safety investments to ensure sustained progress?

Answer. Safety related investment in behavioral, regulatory and highway infrastructure programs should be continued, however, investment should be increased in program areas that work and yield results, while programs that are ineffective

or counterproductive should be dropped. First, on the behavioral side, we know that targeted programs that reinforce state laws with clear public safety messages and strong enforcement are successful. The “Click It or Ticket” seat belt enforcement projects are an example of behavioral efforts that are effective because they support existing requirements in state law. Similar efforts to reduce drunk driving can also be effective. However, without stronger Federal oversight and accountability of state expenditures of Section 402 funding (see below, last response in Question #5), there can be no assurance that state expenditure of Federal funding is being used effectively.

Second, greater safety benefits can be achieved through regulatory efforts to limit occupant fatalities and injuries through careful selection of the next generation of crash avoidance and occupant protection countermeasures. Just as airbags are now saving hundreds of lives each year, NHTSA can improve safety by issuing regulations to require vehicle stability to prevent rollover, to reduce the design incompatibility of different types of vehicles, to provide better side impact protection, and to install effective crash prevention warning systems. In addition, NHTSA should develop regulations to control the dissemination and use of vehicle telematics that can distract drivers from the driving task, another emerging safety concern.

The third area for future safety investment is better highway design and engineering requirements. It is easy to forget that drivers and vehicles operate within the limits of the designs of the highways we all use. Those highways can be designed better or worse, and many thousands of miles of these roads have obsolete, substandard designs that are long overdue for upgrading. Many highway crashes are directly linked to drivers having little margin for error because narrow lanes and shoulders, steep drop-offs at the roadside, limited sight distance, low pavement skid resistance, and lethal fixed object hazards are often sited directly adjacent to high-speed traffic. Both multi- and single-vehicle crashes frequently occur or are substantially more severe because “forgiving” design features were not built into the road to accommodate driver mistakes without loss of life and infliction of serious physical injuries. Although large sums of Federal funds are spent annually on highway construction and rehabilitation, at present, with the exception of the Interstate system and limited mileage on the National Highway System, there are no required highway design standards to govern the construction and rehabilitation of the vast majority of Federal-aid, state and local highways.

Question 9. The Administration’s SAFETEA proposal would consolidate some programs and give states greater flexibility on spending decisions by allowing the movement of funds between parts of the Section 402 programs and highway safety construction programs. What are the advantages and disadvantages of this approach?

Answer. In general, including the Section 402 program in the flexible spending options is disadvantageous because it undermines traditional highway safety efforts. Funding flexibility, for the most part, is a pretext to permit highway safety funds to be diverted to construction programs. Although Advocates supports greater Federal oversight and state accountability for Section 402 expenditures (see below, last response in Question #5), we are not in favor of raiding funds from effective highway safety and enforcement programs in order to provide additional funds for highway construction, rehabilitation, and maintenance. Reauthorization legislation should dedicate sufficient funding for highway safety construction improvements and hazard elimination so that the diversion of other highway safety funding is not needed. Permitting Section 402 funds to be used for other purposes may also lead to inconsistent funding of state 402 programs, and uncertain financing of those programs from year to year. It may also increase internal conflict within state DOTs over Section 402 funding.

Furthermore, in the name of funding flexibility, the Section 402 program has been used as a trap door in order to offset funding penalties imposed on states that have not adopted critical safety laws such as open container and repeat offender statutes. (See below, response to Question #4). States that are penalized by having a percentage of their construction funds diverted to the Section 402 program are also permitted, in turn, to use all or a portion of those same funds for projects eligible under the hazard elimination program (Section 152). Thus, states are able to budget less for the hazard elimination program, and more for other construction programs that they expect will have a percentage of funds redirected to the Section 402 program because of the penalty. This type of circular system of funding flexibility undermines the purpose and intent behind penalizing states for the failure to adopt safety laws, makes the adoption of safety laws such as the open container and repeat offender laws far more difficult, and uses the 402 program as a revolving door to evade the authorized sanctions. A similar funding shell game has been proposed as part of the SAFETEA highway safety improvement program penalty to promote state adoption

of primary seat belt laws. (See below, response to Question #5 regarding proposed HSIP). Indeed, the SAFETEA funding flexibility proposal would substitute the highway safety improvement program, in place of the hazard elimination program, as the ultimate potential recipient of the construction funds that are required to be diverted to the Section 402 program by states that have not adopted open container and repeat offender laws.

While there may be a limited advantage in allowing portions of incentive grants to be used for highway construction, rather than for the Section 402 program, the effectiveness of such a financial lure as part of an incentive grant program is yet to be proven. Theoretically, this type of funding flexibility could be an inducement to states to adopt safety laws if the incentive grant funds are available for safety and non-safety construction programs. The grant funds would not need to pass through the Section 402 program, however, but could be dedicated for construction program use outright. The major example of such a program was the safety belt incentive grant program, which permitted the use of the grants for construction programs, but did not increase the number of states with primary seat belt laws nor appreciably increase seat belt use rates in most states.

Question 10. As Congress seeks to encourage the states to reduce their traffic-related fatalities through various programs, it can choose to provide incentive grants or it can choose to penalize states for not adopting highway safety laws. Which approach is more effective?

Answer. It is beyond doubt that Federal-aid highway program penalties are far more effective than incentive grants in getting states to adopt highway safety laws. While a minority of states respond positively to the offer of incentive grants, such grant programs have never been able to achieve uniform adoption of safety laws by all 50 states. Penalties, on the other hand, that withhold funds outright or that divert highway construction funds to non-construction safety programs, have been successful in getting states to adopt a number of important safety laws including the minimum drinking age law, .08 BAC law, and zero tolerance for youthful drivers. Similar diversion of funds to the Section 402 program were enacted as part of the open container law and increased penalties for repeat drunk driving offender law provision in TEA-21. These provisions, however, include a trap door that permits funds to be funneled back to the hazard elimination program. This budgetary version of musical chairs undermines the effectiveness of the penalties in the open container and repeat offender provisions.

Question 11. What are the major items in SAFETEA that you like about the proposal and what, in your view, should be reconsidered? Are there aspects of highway safety that the proposal does not address?

Answer. There are several proposals in the SAFETEA bill that should be reconsidered.

- *National Blue Ribbon Commission On Highway Safety:* While not making sufficient financial and resource commitments in the bill to support current safety efforts, the legislation would establish a commission to study overall highway safety issues with a 30 year time horizon and with no requirement to file an initial report until 2006, or a final report until 2009. The creation of a commission to look at long-term issues appears to divert attention from an emphasis on achieving near-term DOT safety goals. The effort and funding (\$7 million) would be better spent assisting DOT to develop actions to reduce fatalities and crashes in order to achieve existing DOT safety performance goals included in the DOT Performance Plan—FY 2004. For highway safety these goals include: reducing the overall traffic fatality rate to 1.0 per 100 million vehicle miles of travel (VMT) in 2008 (the rate is currently 1.5); reducing large truck related fatalities to 1.65 per 100 million VMT in 2008 (the rate is currently 2.4); reducing the alcohol-related fatality rate to 0.53 in 2004 (the rate was 0.64 in 2002 based on the early assessment data); and to achieve a national 79 percent safety belt use rate in 2004 (the rate was 75 percent based on 2002 data). This safety goal that has been revised downward from previous benchmarks set by NHTSA in 1997, establishing national goals for seat belt use rates of 85 percent by 2000, and 90 percent by 2005. (Presidential Initiative for Increasing Seat Belt Use Nationwide, U.S. DOT). In addition, in 1999 the DOT Secretary announced the safety goal of reducing the number of deaths in large truck related crashes by 50 percent in 10 years (in 2008). Creating a commission to explore long-term issues diverts attention, focus, and resources from immediate safety needs.
- *Highway Safety Improvement Program (HSIP) funding flexibility:* This program has two important flaws. First, it weakens the safety focus of the hazard elimination program by broadening the scope of projects permitted in this program to include projects such as traffic calming, and contains vague wording that

may not limit projects to serious safety problems and hazard elimination. Second, although states that do not adopt a primary (enforcement) safety belt law will have 10 percent of their HSIP funds obligated to Section 402 highway safety programs. This is not wise because the redirection of funds penalizes a dedicated safety program, the HSIP, by redirecting funds to another safety program, Section 402. Funds dedicated to safety improvements and safety programs should not be targeted. In addition, the funding trap door in the proposed Section 402 safety performance grants allows states to divert 50 percent of that grant money to be diverted from the Section 402 program for use on HSIP projects. Thus, the HSIP funds lost to Section 402 program projects can be replaced by the expenditure of other Section 402 funds, received from the proposed performance grants, which can be spent on HSIP projects.

- *Primary Safety Belt Use Law Performance Grant Program:* Sanctions are far more effective in achieving nationally uniform safety policy countermeasures than incentive grants. While Advocates does not oppose the effort to encourage states to voluntarily adopt primary seat belt laws through incentive grants, the program should impose a sanction in the final 3 years to require state adoption of primary enforcement seat belt laws or face the loss/redirection of Federal construction funds. The HSIP 10 percent redirection will not be sufficient to convince reluctant states to adopt primary enforcement laws both because the loss of a portion of HSIP funding alone, as opposed to other construction program funds, is not a strong financial incentive, and because the redirection of HSIP funds can be offset by the use of half of the proposed performance grant funds. Finally, the penalty for failure to adopt a safety requirement should not be the loss or redirection of dedicated safety funds, the larger highway construction funding program should be the target.
- *Insufficient funding for anti-drunk driving initiatives:* The SAFETEA proposal significantly reduces the funding for anti-drunk and drugged driving efforts from previous levels. Although behavior modification efforts are difficult to sustain, passage of strong impaired driving laws coupled with anti-drunk driving campaigns have been particularly successful in lowering the incidence of drunk driving and related crashes and fatalities. The reduced funding also comes at a time when drunk driving related crash fatalities are increasing and the response should be to renew anti-drunk driving initiatives and to increase funding for countermeasures.
- *NHTSA Motor Vehicle Crash Causation Study:* Advocates objects to the proposed investigation of the causes of passenger vehicle crashes that NHTSA plans to conduct because the agency has stated that it would use the same research design currently being used in the Large Truck Crash Causation Study (LTCCS). That study has been heavily criticized as defective by both the Transportation Research Board committee empanelled to oversee the study, and highway safety organizations such as Advocates for Highway and Auto Safety, Public Citizen, CRASH, P.A.T.T., and the Insurance Institute for Highway Safety. The passenger vehicle crash causation study would essentially use the same flawed research design that is planned for review by the National Centers for Disease Control (CDC) in Atlanta, Georgia. Congress was so concerned with the validity of the research methods for the LTCCS that it directed the U.S. DOT, in the Fiscal Year 2003 appropriations legislation, to have the CDC review the FMCSA–NHTSA research approach and report its findings. The basic flaw in both studies is the lack of any experimental research design using a comparison group to test hypotheses about the causes of motor vehicle crashes. Instead, FMCSA and NHTSA are attempting to provide explanations of the “causes” of crashes solely through the detailed description of how each crash supposedly occurred based largely on the characterization of events supplied by individuals who were at the scene of the crash when it occurred. This approach of simply analyzing a set of crash cases is considered by the National Institutes of Health as the poorest level of research and scientific evidence.

Areas which the administration proposal fails to address include:

- *Child passenger performance grants:* The SAFETEA proposal does not include a performance grant program to encourage state adoption of booster seat laws for children up to 8 years old.
- *Section 402 funding accountability:* Although Section 402 is reauthorized, there is no provision to address criticism that the program lacks supervision and accountability. According to a recent General Accounting Office (GAO) report (*Better Guidance Could Improve Oversight of State Highway Safety Programs*, GAO-03-474, April 2003), NHTSA does not uniformly use management reviews

to monitor state implementation of highway safety programs, or require program improvement plans to correct deficiencies under Section 402. As a result, there is no consistent process to monitor and review whether states are achieving the goals they set for themselves, nor a comprehensive method to ensure the correction of ineffective state programs. As a result, there is no assurance that Section 402 funds are being expended on effective safety programs or achieving the intended results.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED TO KATHRYN SWANSON

Question 1. Ms. Swanson, the Administration's proposal provides increased flexibility for the states to move funds between certain Section 402 programs and highway safety construction. What do you think the impact of that might be?

Answer. The Administration allows all of the primary seat belt incentive funding, half of the performance incentive funding, and half of the seat belt use rate incentive funding to be flexed into the new core safety construction program. The flexing of primary seat belt incentive funding could only occur after the state enacts a primary belt law. The intent is to encourage state departments of transportation (DOT's) to be involved in state efforts to enact state primary belt laws.

While we support the intent of the primary belt primary seat belt flexibility provisions, it is very likely that the state highway safety offices (SHSO's) will do all the work to enact the law and then see little of the incentive funding once the primary bill is approved. That has been the experience of several states that have worked to enact .08 BAC laws. (Under TEA-21, states receive Section 163 funds if they enact .08 BAC laws. Eligible states can use the incentive funds for any purpose under Title 23, including highway construction.)

With tight state budgets and limits on the overall growth of the federal-aid highway program, state departments of transportation are looking at every possible avenue for new construction funding. Even though the flexible funding amounts in all three incentive grant programs would be small, they may still be attractive enough to the DOT's to warrant the transfer from the non-construction programs into the construction program.

Question 2. Will it pit the interests of highway safety representatives against those of state engineers and highway administrators?

Answer. It certainly could. As noted in our testimony, the flexibility provisions sound persuasive on paper but would work with difficulty in reality. Nearly half of the SHSO's are located in a state DOT. Hence, if the head of the DOT decides to use the incentive funds for safety construction purposes, the director of the SHSO has no recourse except to agree with the request of his/her boss. More than twenty of the remaining SHSO's are located in departments of public safety. In those cases, the SHSO and the DOT could be pitted against each other in deciding how the flex funds should be used.

DOT's and SHSO's do not have equal influence and cannot negotiate as equals. DOTs are far bigger agencies with much bigger staffs and budgets. As a result, in many instances, the decisions about flexibility would be one-sided. Further, based upon our experiences with the Section 163 program and the two penalty transfer programs authorized under TEA-21, we know that joint decisions about the use of safety funding can be very difficult. For all of these reasons, GHSA is very apprehensive about the flexibility provisions.

We believe that the safety interests of the state DOTs and the SHSOs are similar but the methods of solving safety problems are different. We also realize that highway safety issues can't be solved by one agency alone. Every agency with a safety-related responsibility has to work together and jointly develop a strategic safety plan in which high priority problems are identified and existing funding is targeted to those problems. As part of that planning process, each agency needs to bring its Federal safety resources to the table and apply those resources to safety problems in a smart and effective way. GHSA believes that this strategic approach to safety will be more beneficial than the flexible funding concept. Hence, we support the strategic planning part of the flexible funding proposal but not the flexibility itself.

In GHSA's proposal, an occupant protection incentive tier and an impaired driving incentive tier would be authorized. Eligible states would be required to use the occupant protection incentive funds for occupant protection purposes only. Similar restrictions would be placed on the impaired driving incentive funds.

Question 3. Ms. Swanson, you heard GAO's testimony, in which Mr. Guerrero discussed improvements that NHTSA can make in oversight of state programs. What has been your experiences with NHTSA field offices and the job they are doing in helping the states improve highway safety?

Answer. The state experience with NHTSA field staff has been mixed. In some regions, the staff work closely with the SHSO's to interpret Federal guidance, review annual Highway Safety Plans, work with the media, etc. In those regions, the Regional Administrator (RA) works to facilitate and encourage state safety efforts. In other regions, the working relationship is more adversarial and the RA is more directive in his/her approach with the states. A lot depends upon the personality of the Regional Administrator. The technical capabilities of the regional staff also vary considerably. In some regions, the states have as much or more experience and technical capability than some of the regional staff.

The states have been concerned for many years about the inconsistencies in the way NHTSA regional offices are administered. That is why we concur with GAO that NHTSA's oversight should be applied on a more consistent basis and that explicit criteria should be developed for that oversight. NHTSA is developing performance criteria for that purpose. If a state fails to perform after a three-year period, then a program review would be triggered. GHSA supports this approach and is helping NHTSA identify the trigger performance criteria.

Question 4. Considerable progress has been made over the last decades in reducing highway fatalities but this progress has slowed in the last few years. In fact, the numbers of fatalities has increased recently. What are the reasons for this spike?

Answer. There is no spike in fatalities. Fatalities have held steady for several years and are now beginning to inch upward. While there is cause for alarm about this recent trend, it's also important not to overstate the problem and keep everyting in perspective.

It is difficult to say with any certainty what the reasons are for the increase. However, there are several theories about it. For one, the population (particularly the young and the old), vehicle miles of travel, licensed drivers and registered vehicles have all continued to increase. In the face of these increases, Federal and state programs have been able to prevent the number of fatalities from growing much larger but have not been able to make fatalities decline significantly.

Federal funds have enabled states to reach those populations that are susceptible to behavioral change but not the hard-to-influence populations such as rural young, male drivers. In effect, Federal funding has enabled states to attack the relatively easy targets—the low hanging fruit. It is likely to cost considerably more to convince the last 25 percent of the population to buckle up than it has to convince the first 75 percent. If Congress wants the states to be successful, it will have to make the financial commitment commensurate with the size and scope of the remaining problem.

Another possible reason is that the public has lost interest in some of the key safety issues and may assume that the highway safety battle has been won. This seems to be particularly the case with impaired driving. The media appears reluctant to cover impaired driving because there is nothing new to report from their perspective. Further, most of the impaired driving problems are caused by a small number of repeat offenders and the general public has a difficult time relating to that group.

Yet another potential cause of the problem may be attributable to other safety issues such as speed, aggressive driving, fatigue, and distracted driving. Ever since Congress eliminated the National Maximum Speed Limit, many (though not all) states experienced increases in speed-related fatalities. The public's attitude toward speed has consistently eroded over the years, and drivers appear to consider posted speed limits as guidelines rather than legal limits. Coupled with this is the fact that Americans are working more hours, have more competing demands on their free time, and live further outside central cities. It is probable that these trends have led to an increase in aggressive and fatigued driving. Further, as cell phones and telematics appear in vehicles, drivers are more and more distracted. All of these may have been contributors to the increase in fatalities.

Yet another contributing factor may be the reduced focus of enforcement personnel on traffic safety. Since September 11, many law enforcement personnel have been detailed to security activities and are not expected to resume their normal enforcement responsibilities any time soon. At the same time, state highway patrols across the country are facing an unprecedented number of retirements as baby boom enforcement personnel reach retirement age. State budget cuts have also caused reductions in state and local law enforcement agencies, and the traffic enforcement divisions are typically the first to be cut. The remaining traffic enforcement personnel are being asked to do more and more, resulting in staff burnout. In many states, enforcement agencies aren't interested in traffic grants because they simply do not have the personnel to undertake grant activities. Hence, at a time when more emphasis has been placed on traffic enforcement and when the benefits of enforce-

ment have been well documented, it has become more and more difficult to undertake enforcement efforts.

Question 5. The lack of progress in reducing highway fatalities is especially frustrating in light of the billions of dollars that have been spent on highway safety and infrastructure improvements under TEA-21. As we move forward and reauthorize these programs, where should we make future safety investments to ensure sustained progress?

Answer. First, states *have* made considerable progress under TEA-21 and it's important not to lose sight of that. Under TEA-21, the fatality rate is the lowest on record, the safety belt use rate is the highest, the number of children in restraints is the highest, and impaired driving fatalities are well below levels of a decade ago. Yet there is much more to be done.

Second, in our view, the Federal highway safety program needs to provide states with funding to address a range of behavioral issues while at the same time focusing on top priorities. As NHTSA has indicated repeatedly, the easiest, most effective way to protect people in a crash is to ensure that they buckle up. Hence, funds should focus on improving safety belt use and ensuring that children are in child restraints. Additionally, the focus should be on impaired drivers since impaired driving causes such a large percentage of all crashes.

GHSA's proposal would divide the consolidated safety grant program into thirds: approximately one-third for 402 grants which could be used to address any number of behavioral safety concerns, one-third to improve occupant protection and one-third to reduce impaired driving.

Question 6. The Administration's proposal would consolidate some programs and give states greater flexibility on spending decisions by allowing the movement of funds between the Section 402 programs and highway safety construction programs. What are the advantages and disadvantages of this approach?

Answer. As noted in our testimony, GHSA strongly supports program consolidation. There are currently eight different grant programs and two penalty programs that must be administered by small highway safety offices. Each of these programs has different purposes, applications, and deadlines and the requirements of some programs (*e.g.*, the Section 157 innovative grant program) change from one year to the next. Some grants are given out at the beginning of the fiscal year, others during the year, and three are not awarded until the very end of the year. At the beginning of a fiscal year, a state may be implementing grants in that fiscal year, evaluating grants from the previous fiscal year, and planning to expend carryover funds from grants that were awarded late in the fiscal year. Needless to say, administration of these myriad grants has been confusing and very difficult. A single grant program with incentive tiers would be far easier to administer. There would be one application deadline and one grant that could be awarded at the beginning of the Federal fiscal year.

There are no disadvantages to program consolidation from our perspective. Some concerns have been expressed by others about losing the focus on impaired driving and occupant protection if there is program consolidation. In GHSA's proposal, there are separate incentive tiers for both, so the focus on high priority issues would continue within the context of a consolidated program.

With respect to funding flexibility, the main advantage is that states would be required to complete a statewide strategic highway safety plan before they could flex funds between categories. That would compel state agencies with safety responsibilities to work together—a goal that GHSA strongly supports.

The disadvantages of flexible funding were detailed in our previous responses. GHSA does not support the proposed flexible funding. We do, however, support the concept of strategic statewide safety planning efforts. We recommend that that strategic safety plan concept be retained but separated from the flexible funding concept.

Question 7. As Congress seeks to encourage states to reduce their traffic-related fatalities through various programs, it can choose to provide incentive grants or it can choose to penalize states for not adopting highway safety laws. Which approach is more effective?

Answer. Both approaches can encourage states to enact critical safety legislation. Both have their advantages and disadvantages but, on balance, states support incentives over sanctions and penalties.

Incentives can successfully encourage states to enact specific legislation (such as graduated licensing laws) or take other desired actions (such as improving BAC testing). Just this year, for example, Illinois enacted a primary safety belt law in part because it believed that it would receive five times its FY 2003 402 apportionment, as proposed by the SAFETEA proposal. The 410 program also successfully en-

couraged states to improve their impaired driving programs while providing eligible states with the resources they needed to make further improvements.

Some incentive programs are less than successful because they are so small that they pale in comparison with what a state receives in highway construction funding. Hence, they are not large enough to convince a state legislature or other state agency to act appropriately. Some incentive programs are weakly constructed so that they reward poor behavior rather than encourage improved behavior. Others exacerbate the differences between “have” and “have not” states. A good incentive program has to be large, with a portion earmarked for states that are having difficulty and the remainder to reward states that improve performance or maintain a superior level of performance.

The advantage of sanctions is that they force all the states to enact specific legislation by a set time period. However, despite the rhetoric, sanctions and penalties are not uniformly effective. They can be effective where there is public support, as is the case with sanctions that focus on impaired driving or those that aim to protect young persons.

If there isn’t public support, as was the case with the sanctions for motorcycle helmets and the National Maximum Speed Limit, the sanctions are completely ineffective. The lack of public support ultimately caused the repeal of both sanctions. Sanctions have also caused tremendous resentment on the part of state legislatures. They feel that sanctions are political coercion and pass only the bare bones legislation necessary to avoid the sanction. Then they fail to provide funding to ensure that the required laws are aggressively enforced. In the end, little has been accomplished.

Congress has increasingly relied on sanctions to force states to enact specific legislation. There are eighteen sanctions, seven of which are safety-related. Three of the seven penalties/sanctions have been enacted either in TEA-21 or thereafter. No other area of transportation is affected by sanctions and penalties like safety. The message that Congress is sending is that it wishes to address safety problems primarily by punishing states and forcing them to act in a top-down approach and a uniform, one-size-fits-all manner. Further, disputes over new sanctions tend to shift the focus of discussion from the merits of safety programs to the battle over safety sanctions. This is extremely discouraging and ultimately self-defeating.

Penalties have also caused problems. They pit the SHSO against the state DOT whose funds are being transferred into the behavioral highway safety program. SHSO’s do not find this a helpful approach.

GHSA accepts existing penalties and sanctions but does not support the enactment of new ones. We have recommended some technical changes to the repeat offender penalties so that they are more effective.

Question 8. What are the major items in SAFETEA that you like about the proposal and what, in your view, should be reconsidered? Are there aspects that the proposal does not address?

Answer. Under SAFETEA, the Department of Transportation has proposed a three-part consolidated behavioral highway safety grant program. The proposed program includes basic formula funds, performance incentive funds, and a strategic impaired driving program. The performance incentive funds will be further divided into three types of incentives. In addition, DOT has proposed a separate data grant program and a very small EMS grant program.

As noted in our testimony, GHSA is pleased about some aspects of the funding request but very disappointed about several others.

The Association is pleased that DOT supported the idea of grant consolidation. As noted previously, a single grant program with one application and one deadline should be much easier to administer. GHSA is also pleased that the Administration is proposing performance incentive grants and increased funding for states that enact primary safety belt laws. The Association also supports performance-based incentives, particularly for states that enact primary belt laws or improve their safety belt use rates above the national average and has incorporated those concept into its own proposal.

GHSA strongly supports the proposed DOT data incentive grant program. The program funding level, the eligibility criteria, and the proposed use of grant funds are identical to those recommended by the Association.

As noted previously, GHSA supports the requirement that states coordinate their highway safety construction, behavioral and motor carrier grant programs and develop comprehensive, strategic highway safety goals. Future improvements in highway safety are not as likely unless states coordinate the disparate aspects of their highway safety programs. We believe that these requirements should be maintained but unlinked with the flexible funding proposal.

GHSA supports the proposed funding for the crash causation study. As noted in our testimony, it has been about thirty years since such a study was conducted. If states are to improve driver and road user behavior, it is essential to know why crashes were caused. GHSA recommends, however, that the difference between the NHTSA crash causation study and the proposed FSHRP crash causation study need to be clarified and the studies coordinated.

GHSA also supports the proposed increased funding for the Section 403 program. However, it appears that most of the increase will be used for the crash causation study. Additional research resources must be directed to the NHTSA 403 program so that evaluation studies can be conducted on the effectiveness of various safety countermeasures.

GHSA is extremely disappointed in the overall funding level for the behavioral safety grant programs. Behavioral funding is level funded in FY 2004 and then it rises very gradually over the remaining five years of the reauthorization period. Total funding in FY 2009 is only 10 percent higher than in FY 2004. It will be extremely difficult for states to make further improvements in the behavior of drivers and other road users without sufficient funding. As noted previously, it will be costly to convince the hard-to-influence populations to change their driving behavior. Further, additional funds are needed to address emerging safety issues (such as aggressive, fatigued, and distracted driving, older drivers) and provide programs for minorities and ethnic populations, etc.

GHSA finds the impaired driving program totally unacceptable and urges that Congress reject the proposal. \$50 million is considerably less than has been spent on impaired driving under TEA-21 and far less than is needed to adequately address this growing problem. Further, the program is too narrowly focused on a few states where an intervention could, if it worked perfectly, eliminate a lot of fatalities. In a sense, it rewards states that have performed poorly by giving them additional funding to the exclusion of all other states. Impaired driving is a problem in every state, yet the proposal would provide no funds for the remaining, "non-strategic" states.

GHSA particularly dislikes the fact that the proposed impaired driving program will be implemented in the same manner as the 157 innovative program. Under that program, NHTSA set very restrictive conditions on the grants and completely micromanaged the way eligible states expend funds. States have found the program very onerous and do not wish to repeat the experience under the proposed impaired driving program. GHSA believes that the proposed strategic impaired driving initiative is more appropriate as a Section 403 demonstration program than as a state incentive grant program.

The Administration is proposing funding for three types of incentives—for enacting primary belt laws, for improving safety belt use rates and for improving performance. Each of these incentives will have their own eligibility criteria and their own earmarked funding. We are concerned that the performance incentive program may be just as complex as the myriad of programs that are currently authorized under TEA-21. As noted in our testimony, GHSA urges that the goal in the next reauthorization should be simplicity and consolidation. In our proposal, we have combined the incentive for seat belt use rates with the one for enacting a primary safety belt law.

In the proposed primary belt law incentive grants, GHSA is very troubled by the distinction between states that enacted their primary belt laws during TEA-21 and those that will enact them under SAFETEA. The former states are eligible for only ½ of their FY 2003 402 apportionments over a two-year period. The latter are eligible for 5 times their FY 2003 402 apportionments.

GHSA believes that it is very difficult for states to adopt primary belt laws, no matter when they enact such laws, and that to make such a distinction is unfair and serves to pit one set of states against another. The Administration assumes that states with existing primary laws can tap into the flexible safety funds. However, any state with a primary belt law can flex the funds, assuming that the flex provisions are, in fact, authorized. There would be no advantage for those states with existing primary laws.

States that have primary belt laws should be rewarded for their superior performance and states wishing to enact such laws should be strongly encouraged to do so. If Congress were to treat all states with primary laws equally, it would have to either authorize a \$825 million program (five times the FY 2003 402 level) or reduce the incentive to all primary belt law states to 3.5 times their FY 2003 apportionment.

As noted previously, GHSA strongly opposes the flexible funding proposal and urges that it be rejected.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED TO JOSEPHINE S. COOPER

Question 1. There has been much made in the press about the safety of SUVs and the safety data speaks volumes in this serious issue. What more should NHTSA and the manufacturers do to reduce rollover deaths?

Answer. The Alliance agrees that rollovers represent a significant safety challenge for all passenger vehicles and warrant action. Twice as many rollover fatalities occur to occupants in passenger cars as compared to SUVs. The Alliance is working to reduce the frequency and consequences of rollover of all passenger vehicle types by:

- Developing a vehicle handling test procedure that will assess the performance of electronic stability control systems and other advanced handling systems.
- Developing test procedures to assess the performance of occupant restraint technologies intended to reduce occupant excursion and mitigate occupant ejections in rollovers.
- Examining roof strength in rollover crashes.

These efforts are expected to result in recommended practices or design guidelines.

Nearly three-quarters of the rollover fatalities occurring annually involve occupants who were not wearing their safety belts. Wearing a safety belt will reduce the risk of fatal injury in a rollover by 80 percent. Adoption of primary enforcement safety belt use laws by states and the stepped up enforcement of these and all traffic safety laws would help to immediately abate these fatalities.

An Alliance analysis of U.S. government statistics concludes that today's SUVs are as safe as cars. In the most common of crashes (front, side and rear crashes), SUVs have a safety record that surpasses that of cars. An analysis of U.S. government data performed by the Insurance Institute for Highway Safety (IIHS) looked at SUVs that were three-years-old or newer. The conclusions of the IIHS study—which are indicative of future trends—demonstrate that the safety performance of SUVs surpasses that of cars.

Question 2. Given that thousands of fatalities are a result of the failure of vehicle roofs to protect passengers during rollover, do you believe automobile manufacturers have taken adequate remedial action in incorporating roof crush improvements or can more be done?

Answer. Alliance members are continuously working to advance the safety performance of their cars and trucks in all crash modes including rollovers. Alliance members passenger-carrying cars and trucks typically exceed the Federal safety standard for roof crush resistance. Standard 216 establishes the strength requirements for the passenger compartment roof. The standard requires that the amount of roof crush not exceed 127 millimeters (5 inches) when a force equal to 1.5 times the vehicle's unloaded weight is applied to the forward edge of a vehicle's roof. Typically, 127 millimeters of deformation is not seen until the force applied is between 2 and 3 times a vehicle's unloaded weight.

Of the roughly 26,000 occupants that NHTSA estimates are seriously or fatally injured annually in light vehicle rollover crashes, 14 percent were using their safety belt and involved in a crash where roof intrusion was present. Despite the extensive research to date, there remains an uncertain relationship between roof crush resistance and real-world crash outcomes. As NHTSA has observed, "vehicles that perform well in roof crush tests do not appear to better protect occupants from severe roof intrusion in real-world crashes." See 66 Fed. Reg. 53383, October 21, 2001. This conundrum should be resolved before any meaningful approach to increase roof crush resistance could be developed. Whatever metric is developed to assess roof strength, it must be shown that performance on this metric is related to real-world crash outcomes.

The Alliance understands that NHTSA will propose an upgrade to its roof strength standard later this year and we will work with NHTSA to reduce injuries that result from occupant contact with the roof.

Question 3. Considerable progress has been made over the last decades in reducing highway fatalities, but this progress has slowed in the last few years. In fact, the number of fatalities has increased recently. What are the reasons for this spike?

Answer. There are two principle reasons: non-users of safety belts and drivers impaired by alcohol or drugs. Through the efforts of the Airbag & Seat Belt Safety Campaign, which is funded principally by Alliance members, safety belt usage has increased to 75 percent, compared to 61 percent when the Campaign started in 1996—however 59 percent of those killed in 2002 were not wearing their safety

belts. Alcohol-related fatalities also increased in 2002 for the third consecutive year and accounted for 42 percent of all fatalities.

Other factors include: motorcycle fatalities increased for the fifth straight year; fatal crashes involving young drivers 16 to 20 years old increased slightly; and occupant fatalities for children 8 to 15 years old increased by nearly 9 percent. Adoption of primary enforcement safety belt use laws by states and the stepped up enforcement of these and all traffic safety laws would help to abate these fatalities.

Suggestions that the number of highway fatalities is increasing because of an epidemic of fatal rollovers involving SUVs are not supported by the data. During the period 1995–2002, the number of light vehicle occupant fatalities occurring annually has hovered around 32,000. However, there has been a slight shift in the distribution of fatalities attributable to rollover and non-rollover crashes from 30:70 to 33:67. Likewise, as expected, the distribution of fatalities by body type has also shifted as the on-road light vehicle fleet mix has changed. However, this distribution tracks the fleet mix. In other words, in 2002 SUVs comprised roughly 12 percent of the on-road fleet and 12 percent of the light vehicle occupant fatalities that occurred in 2002 involved SUV occupants. Normalizing the data for exposure by calculating a fatality rate on either a per 100,000 registered vehicle basis or on a vehicle miles traveled (VMT) basis, one finds that the fatality rates for all crash types and all vehicle body types have fallen over this period. The SUV rollover fatality rate has declined 15 percent over this period (compared to 11 percent for passenger cars). However, the number of registered SUVs during this period has grown by 130 percent, compared to only 5.2 percent for passenger cars, representing a significant increase in exposure. None of this data would suggest that we are seeing the start of an epidemic of rollover crash fatalities.

Question 4. The lack of progress in reducing highway fatalities is especially frustrating in light of the billions of dollars that have been spent on highway safety and infrastructure improvements under TEA–21. As we move forward and reauthorize these programs, where should we make future safety investments to ensure sustained progress?

Answer. Principally on increasing safety belt usage and reducing impaired driving. We will never fully realize the potential benefits of vehicle safety technologies until vehicle occupants are properly restrained and impaired drivers are off the road. The Alliance believes we will have an immediate safety benefit if we are able to increase national safety belt usage to the levels observed in Canada (92 percent) and some states, *e.g.*, California, Oregon, Washington, Hawaii. Increasing safety belt usage to 92 percent from its current 75 percent usage level would save 4,500 lives annually and countless injuries would be avoided. In addition to the incentive grants proposed in SAFETEA and the Federal highway fund sanctions recommended below, the Alliance supports S. 1139 introduced by Senators DeWine and Lautenberg. This bill would fund at least three high-visibility traffic safety law enforcement campaigns annually for Fiscal Years 2004 through 2009. The campaigns would focus on increasing safety belt usage and reducing impaired driving.

Question 5. The Administration's SAFETEA proposal would consolidate some programs and give states greater flexibility on spending decisions by allowing the movement of funds between parts of the Section 402 programs and highway safety construction programs. What are the advantages and disadvantages of this approach?

Answer. The advantage to this approach would be lower administrative costs and a more streamlined application process for states. The disadvantage would be a diversion of funds towards highway safety construction programs. Section 402 funds should be separate and, in fact, Congress should consider creating a separate Highway Safety Trust Fund to ensure that these programs are properly funded in the future.

Question 6. As Congress seeks to encourage the states to reduce their traffic-related fatalities through various programs, it can choose to provide incentive grants or it can choose to penalize states for not adopting highway safety laws. Which approach is more effective?

Answer. Actually a combined approach. In addition to the incentive grants proposed in SAFETEA, Federal highway fund sanctions should also be included which would be imposed if acceptable belt use levels have not been reached after a defined period of time—perhaps 3 years.

Question 7. What are the major items in SAFETEA that you like about the proposal and what, in your view, should be reconsidered? Are there aspects of highway safety that the proposal does not address?

Answer. The Alliance supports the following proposals contained in SAFETEA:

- Sec. 2001 Highway Safety Program which provides incentives for states that pass primary enforcement safety belt laws, high visibility enforcement of these laws, and an impaired driving grant program. Consideration should be given to (1) coupling the incentive grants with Federal highway fund sanctions should acceptable belt use levels not be achieved after a defined period of time, and (2) providing funding beyond the level proposed to address the deadly problem of impaired driving.
- Sec. 2002 Highway Safety Research and Development—in particular the crash causation survey and international cooperation.
- Sec. 2004 State Traffic Safety Information System Improvement. The Alliance supports the provision to upgrade state traffic record systems.

Items to be reconsidered:

- There is a need for greater state accountability for expenditure of 402 funds. NHTSA should be required to approve annual state highway safety plans before funding is distributed.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED TO RICHARD BERMAN

Question 1. If roadblocks and public awareness campaigns that highlight the harmful consequences of driving drunk are not, in your opinion, effective measures to combat repeat and “hard-core” drunk drivers, then what are effective measures?

Answer. The most effective measures are those which address the problem. The drunk driving problem has transformed, but the solutions have not. In the early 1980s, the problem stemmed from both hard-core drunk drivers and from a general societal disregard for the dangers of drunk drinking. In this context, Mothers Against Drunk Driving (MADD) served an important role by alerting the general public to the dangers of drunk driving and helping to change a culture. Today, as former MADD President Katherine Prescott stated, the drunk driving problem is “down to a hard core of alcoholics who do not respond to public appeal.” However, MADD has not changed its tactics to target the current perpetrators. Instead, they have proposed ever-more-draconian measures aimed at the social drinker, coupled with PR campaigns on drinking and drugs.

But alcohol abusers do not respond to public service announcements or admonitions not to drive drunk. As *The New York Times* identified as early as 1997, “the people heeding the message are not the ones who drink the most,” and it may be time for “states and judges to try new strategies.”

High-BAC drinkers and repeat offenders are the core of the drunk driving problem in this country. The medical evidence suggests that high-BAC repeat offenders are probably compulsive violators of the law, given their alcohol addiction. MADD is a public relations operation; it simply is not equipped to deal with a drunk driving problem that is now about a health issue: alcohol abuse.

Given the fact that these drivers cannot be persuaded by public opinion campaigns, the sole option left is to apprehend, punish, and, more importantly, treat them. The issue then becomes one of formulating the most efficient mechanism to catch these drivers without imposing undue burdens upon the law-abiding public. Roadblocks—by far the most frequently proposed “solution” to this dilemma—demonstrably achieve neither of these objectives.

In a 1995 National Highway Traffic Safety Administration (NHTSA) report, the authors note that “for chronic drunk drivers, [sobriety] checkpoints may not be very effective since these drivers are more likely to avoid them in the first place, and have learned to alter their driving behavior to avoid detection.”¹

Roadblocks are thus exposing the whole population to a public relations scare campaign to get people “to drink less,” as MADD acknowledged on their website and *not* a concerted campaign to reduce drunk driving deaths and injuries. As Dr. Jeffrey Michael, Director of Impaired Driving & Occupant Protection Division of NHTSA, stated, with roadblocks “you aren’t trying to arrest a lot of people, you’re trying to persuade the community that they are facing a higher probability of arrest.”

Roadblock statistics from May 2003 clearly demonstrate their inefficiency:

- A Memorial Day roadblock campaign in Chico, CA stopped 799 drivers, and failed to net one DUI. *Arrest percentage: 0 percent*

¹ Stuster, J.W. and Blowers, P.A. “Experimental Evaluation of Sobriety Checkpoint Programs,” National Highway Traffic Safety Administration, 1995.

- A roadblock conducted by the Nevada Highway Patrol on May 23 stopped 1,150 drivers and resulted in one DUI. *Arrest percentage: .09 percent*
- More than 4,000 cars passed through a May 30 roadblock in Moreno Valley, CA, and resulted in four arrests for driving under the influence of alcohol or drugs. *Arrest percentage: .1 percent*

All of these fall well below the current .5 percent standard of “efficiency” established by the U.S. Supreme Court in the 1990 *Michigan Department of State Police v. Sitz* case.

Furthermore, roadblocks rely upon being widely announced prior to their operation for their PR value. So again, people who are serious drinkers can find a way to avoid them.

However, there are other, more efficient law enforcement tools for catching drunk drivers. Foremost among them are saturation patrols. A report in the FBI’s January 2003 *Law Enforcement Bulletin* states, “It is proven that saturation efforts will bring more DUI arrests than sobriety checkpoints.” Moreover, “Saturation patrols may afford a more effective means of detecting repeat offenders, who are likely to avoid detection at sobriety checkpoints.”

With extensive evidence proving that saturation patrols are offender specific and the most effective at catching high-BAC and repeat offenders—the acknowledged root of the problem—there is no logical reason not to implement them nationally.

Once the driver has been stopped, mandated alcohol screening for high-BAC and repeat offenders is necessary to make sure that they are properly identified.

Question 2. What would be the most useful action Congress could take in its reauthorization measure to promote an effective mechanism to reduce drunk driving?

Answer. The most useful action is a fresh focus on the problem—which refers back to the answer to the first question. The problem is not people who drink responsibly at a restaurant or a friend’s house before driving home. Twenty years’ worth of NHTSA data show the same virtually nonexistent level of involvement in alcohol-related fatalities for drivers with BAC’s of .04 percent, .05 percent, .06 percent, .07 percent—up to .09 percent. Moreover, the data show that year after year the involvement rate of drivers with BACs of .01 percent—which even the most ardent anti-alcohol activist would agree was not *alcohol-caused*—is identical to that of drivers with BACs of up to .09 percent.

In fact, laws to arrest drivers at .08 percent BAC have reached so far into this cohort of responsible adults that we are punishing people with severe sanctions for behavior that is statistically less likely to cause accidents than cell phone use. A 1997 study published in *The New England Journal of Medicine* found that cell phone use impaired a driver as much as a .10 percent BAC.²

While no one is arguing that .01 percent and .09 percent are identical BAC thresholds, the alcohol-related fatality rate is *identical* because responsible adults self-regulate. Nobody knows their exact BAC when they leave a restaurant or tavern, but responsible adults do know when they are able to drive safely and when they aren’t. (See Chart 1) So if the accidents spike up at the right-hand side of the chart, we have to ask ourselves, “What is the common characteristic among those fatalities?” Clearly, the commonality is excessive drinking—and excessive drinking is a significant indicator of a medical problem.

While drunk driving was originally a traffic safety issue because of the broad population of people involved, it is now a health issue predicated upon a medical addiction. The problem has changed, but we have not changed our focus or how we appropriate money for the issue itself. In fact, more money should be spent through the National Institute for Alcohol Abuse and Alcoholism (NIAAA) instead of through NHTSA on this particular problem.

Question 3. Considerable progress has been made over the last decades in reducing highway fatalities, but this progress has slowed in the last few years. In fact, the number of fatalities has increased recently. What are the reasons for this spike?

Answer. Firstly, this is not a spike. As Dr. Jeffrey Michael of NHTSA recently stated, “it’s more meaningful to look at the death rates. And when you do . . . the rate of fatalities is apparently stable” due to the increased number of miles driven. In fact, he continued, the slight increase in the number of alcohol-related fatalities is “all coming out of the high-BAC data source. In fact, it’s high BAC *despite* the reduction of low BACs.”

In the May 22 hearing, NHTSA Administrator Dr. Jeffrey Runge also testified that yes, the accidents had picked up some, but on a miles-driven basis they had

² Redelmeier DA, Tibshirani RJ. Association between cellular-telephone calls and motor vehicle collisions. *N Engl J Med* 1997;336:453–8.

not gone up. The general trend is down and has been down for some time. Obviously, if you increase the number of miles on the road, you have many more opportunities for accidents of all kinds.

To understand the traffic safety trends, one must also look at demographics. The lower number of drunk driving deaths, for instance, has moved in a very close relationship to the decreasing numbers of younger drivers in the population (see Chart 2). A glance at the chart will show you that an increase in younger drivers coincides with the current slight rise in accidents. Youths have always been disproportionately predisposed to various kinds of dangerous behavior. With cars a ubiquitous part of our society, we should not be surprised that alcohol-related fatalities have begun to increase. Over the next 15 years, this percentage of young people will continue to escalate, raising the number of people who will engage in risky behavior of all kinds, despite what the law says.

In fact, we predicted the slight uptick in numbers based on demographics during June 27, 2002 testimony before the U.S. House Subcommittee on Highways and Transit.

Question 4. The lack of progress in reducing highway fatalities is especially frustrating in light of the billions of dollars that have been spent on highway safety and infrastructure improvements under TEA-21. As we move forward and reauthorize these programs, where should we make further safety investments to ensure sustained progress?

Answer. There is a question of the relationship between states and the Federal Government when it comes to funding effective programs. The Federal Government is becoming more aggressive about using “financial encouragement” or “blackmail” to force states, governors, legislators and highway safety officials to accept Washington’s view of what works. In ever more instances, states are being penalized when they have above-average safety records, but do not adopt federally approved laws. With few exceptions (*e.g.*, the minimum drinking age, requiring helmet use for motorcycle drivers/riders and a mandated national speed limit, which were rescinded), highway safety countermeasures were funded on incentives. More recently, three sanction programs have been implemented to require even the most successful state safety programs to adopt laws the Federal Government believe to be effective.

State governments and traffic safety experts should not be subjected to financial blackmail because they do not believe in one-size-fits-all solutions to drunk driving. This is not an industry position, but one that was taken by numerous traffic safety groups³ during the last two debates over highway funding. There is no logic in believing that national special interest groups and Washington insiders know more about what programs a state should enact to ensure effective traffic safety than officials in that state.

Road improvements, surface improvements, lighting, *etc.* are considered to be significantly causal factors in highway deaths. According to the Department of Transportation, 30 percent of deaths on American highways are caused by road conditions.⁴ And the states and localities are in a much better position to determine whether and where those investments ought to be made than the Federal Government.

Block grants to states to address these problems may not be the most targeted way to get results, but they are surely better than a Washington, DC-based perspective of what it takes to get the job done in 50 different states with thousands of jurisdictions.

However, we ought to accept the fact that we will reach a point of diminishing marginal returns. When you couple 2.83 trillion miles driven in the U.S. every year to myriad human error possibilities, we will reach the point where all of the low-lying fruit has been plucked. Just like a host of other crimes, despite all the laws and the long-standing commitment of law enforcement to stop these, we do get to the point where we reach the irreducible minimum. As long as we’re in a free society, we’re going to have to accept a certain number of people refusing to stay inside the law. Until we decide to change our focus, until we address the more resistant high-BAC and repeat offenders, we will be at the irreducible minimum.

³These traffic safety groups include the National Governors’ Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the National Association of Counties, the American Automobile Association, the American Association of State Highway and Transportation Officials, the American Traffic Safety Services Association, the International Association of Chiefs of Police and the National Association of Governors’ Highway Safety Representatives.

⁴U.S. Department of Transportation. “Highway Statistics,” Federal Highway Administration, 1996.

Question 5. The Administration's SAFETEA proposal would consolidate some programs and give states greater flexibility on spending decisions by allowing the movement of funds between parts of the Section 402 programs and highway safety construction programs. What are the advantages and disadvantages of this approach?

Answer. There are no disadvantages if you trust state governments to be just as concerned for their own citizens' safety as their elected representatives at the Federal level. Our belief is that the states are the great laboratories for experimentation for many issues, including traffic safety. And highways and traffic are about as logical an arena for state government to bring their expertise to bear as any. For instance, there is no way for the Federal Government to know where all of the dangerous intersections are around the country—but local officials do. If the goal is to create effective programs that deal with existing problems, then tailored solutions are necessary. And there are simply too many variables and too much information to make Federal control viable in such a situation.

Question 6. As Congress seeks to encourage the states to reduce their traffic-related fatalities through various programs, it can choose to provide incentive grants or it can choose to penalize states for not adopting highway safety laws. Which approach is more effective?

Answer. It's got more to do with the amount of money involved than whether it is a carrot or a stick. The first issue is the philosophy—and the philosophy is, "Does Washington know better than the states about protecting its citizens on the highways, or are the states more sensitive to what the needs are?" If significant incentives are in place, it's up to the states to determine whether they want to apply for that grant and spend the money in that area. In fact, on incentives, the Federal Government should consider matching grants on a one to one dollar basis or a two to one basis.

Penalties to take away money appear to suggest that there is a difference of opinion between the states and some politically-motivated interest groups who cannot convince the traffic authorities at the local level that their idea works, and so they've taken the philosophy of bludgeoning people into their point of view. This approach seems, by its very nature, to suggest that it is not a great idea. Such coercion certainly does not lend itself to intergovernmental cooperation.

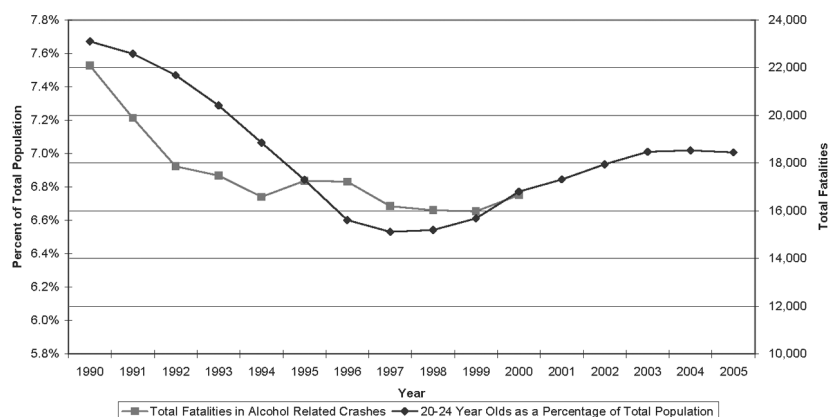
Moreover, you have to ask, "If you gave someone money to protect the citizenry, and they didn't accept it, is there something wrong with the idea in the first place?"

Question 7. What are the major items in SAFETEA that you like about the proposal and what, in your view, should be reconsidered? Are there aspects of highway safety that this proposal does not address?

Answer. We support the SAFETEA plan of combining all highway safety programs into one more efficient grant system (instead of the many different grant programs currently being funded). We further support the grant system's focus on more incentives to states. We also support eliminating existing mandates, and giving states access to this larger pool of money if they adopted a certain number of recommended—and *proven effective*—programs. This contrasts the current system of punitive mandates that take money away from states that choose not to enact "federally approved" (and often unproven) programs. We also think SAFETEA would benefit from more options on the list of anti-drunk driving measures that would be eligible for funding. A longer list of programs offers state governments more opportunities to develop aggressive and innovative prevention ideas. Programs on the list of incentives could include: administrative license revocation, high-BAC tiered penalties, repeat offender programs, graduated penalties, record keeping/information tracking, programs to reduce suspended license driving, treatment programs, ID checks for underage drinkers, specific repeat-offender programs, and .08 percent BAC. Some of these programs or laws are already funded as incentives or mandates.

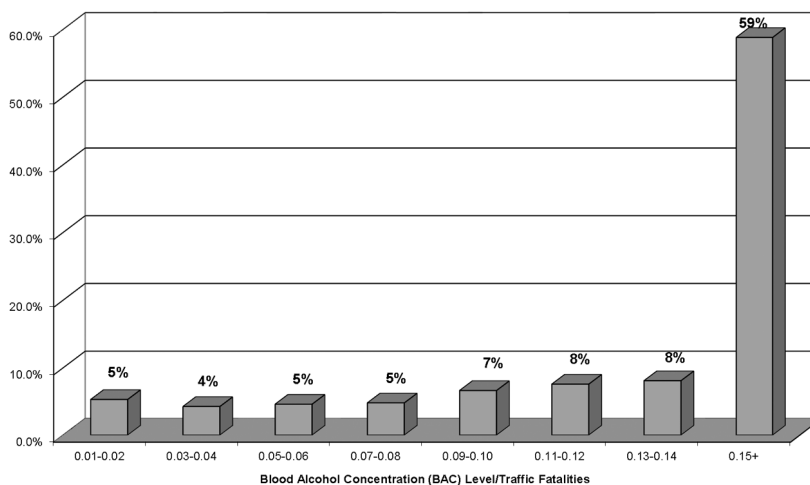
Alcohol-related fatalities are only one part of the larger traffic safety dilemma, and SAFETEA should devote some attention to other driving problems as well. We, like many other groups, promote increasing seatbelt incentives as a way to reduce fatalities and injuries of all kinds. But funding should be provided for other safety counter-measures related to drowsy or fatigued driving, elderly drivers, cell-phone use and other electronic distractions, aggressive driving, and other emerging problems, with the hopes of reducing even more fatalities.

Comparison of 20-24 Year Olds as a Percentage of Total Population and Total Number of Fatalities in Alcohol Related Crashes



Note: Population statistics are compiled using Census Bureau estimates from 1990 for the years 1990 to 2000 (see U.S. Census Bureau, *Population Estimates Program, Resident Population Estimates of the United States by Age and Sex: April 1, 1990 to July 1, 1999*, with Short-Term Projection to November 1, 2000, available from <http://eire.census.gov/popest/archives/national/nation2/intfile2-1.txt>, accessed 26 June 2002.), and population projections based on the 1990 census for the years 2001–2005 (see U.S. Census Bureau, *Population Projections Program, Projections of the Total Resident Population by 5-Year Age Groups, and Sex with Special Age Categories: Middle Series, 2001 to 2005*, available from <http://eire.census.gov/popest/archives/national/nation2/intfile2-1.txt>, accessed 26 June 2002.). Traffic fatality statistics are compiled from Table 13 and Table 18 from National Highway Traffic Safety Administration, *Traffic Safety Facts 2000*, Washington, D.C.: U.S. Department of Transportation, 2001.

2001 National "Alcohol-Related" Traffic Fatalities



Source: Unpublished ABI analysis of U.S. Department of Transportation Fatality Analysis Reporting System data on BAC levels and fatalities in accidents where a driver was actually tested. Imputed fatalities were not included in this analysis. Nineteen states were considered 0.08 states for the analysis including the District of Columbia. These 19 states all had 0.08 laws in effect prior to the 2001 year that was used for this analysis.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED TO WENDY HAMILTON

Question 1. What do NHTSA and the states need to do to make the most improvements in the critical area of alcohol impaired driving? What have been the most, and least, effective programs in reducing drunk driving?

Answer. MADD supports the deployment of science-based, data driven impaired driving countermeasures that have been proven to successfully deter alcohol impaired driving. While there is no single cure to reduce the carnage caused by alcohol impaired driving, research shows that certain initiatives and laws work. These measures include: high visibility law enforcement mobilizations, sobriety checkpoints and saturation patrols, administrative license revocation (ALR), laws to address higher-risk offenders (high BAC and repeat offenders), .08 blood alcohol concentration (BAC)/illegal per se, and a primary seat belt standard. These measures are the basic building blocks of a comprehensive battle plan against drunk driving, and if implemented will save lives and prevent injuries.

The single most effective effort to deter and apprehend drunk drivers is the dedicated use of high visibility law enforcement mobilization campaigns. These campaigns combine targeted law enforcement (sobriety checkpoints, saturation patrols, and/or seat belt enforcement) with the purchase of advertising in broadcast or print media. These efforts have the greatest ability to effectively reduce alcohol impaired driving and to increase seat belt usage.

The least effective traffic safety efforts result from failing to target limited resources to the highest needs. NHTSA and the states, when creating highway safety plans, must establish a strong correlation between problem identification, strategy, program/countermeasure selection and funding. Priority programming of Federal funds must, first and foremost, be based on data driven alcohol impaired driving countermeasures and seat belt initiatives. More than 40 percent of all traffic crashes are alcohol-related, and yet the Nation's traffic safety funding is not being targeted to reduce impaired driving in an effective, strategic way.

Question 2. MADD proposes several recommendations to curb alcohol related traffic fatalities. Which one of these recommendations would have the greatest impact if implemented?

Answer. MADD believes that high visibility national law enforcement mobilization campaigns will have the greatest short-term and long-term impact if implemented. These campaigns are most successful when law enforcement agencies from multiple jurisdictions designate several concentrated periods throughout the year to conduct intensive enforcement of seat belt and/or impaired driving safety laws on a national, statewide and local basis.

If enacted, S. 1139, sponsored by Senator Mike DeWine (R-OH) and Senator Frank Lautenberg (D-NJ), will save lives. This bill provides funding for paid advertising at the national and state level and resources to law enforcement agencies across the country for training, technology and staff time to ensure optimal deployment and effectiveness. MADD strongly encourages the Committee to include S. 1139 as part of the reauthorized TEA-21.

Question 3. You suggest that for every dollar spent on effective highway safety programs about \$30 are saved by society. Is there a diminishing return in some states while others reap more benefits?

Answer. Although MADD believes that behavioral traffic safety programs are woefully under funded, money alone does not equate to the success or failure of highway safety programs. The key is to target funding for programs linked to problem identification based on data. Focusing on "what works" and requiring a greater level of accountability on the national, state and local levels provides the best opportunity to reduce deaths and injuries and economic costs.

According to a recent NHTSA report, the economic impact of motor vehicle crashes on the Nation's roadways has reached \$230.6 billion a year or an average of \$820 for every person living in the United States. Overall, nearly 75 percent of the costs of roadway crashes are paid by those not directly involved, primarily through insurance premiums, taxes, and travel delay. Reducing the frequency and severity of motor vehicle traffic crashes is not simply a matter of public safety; it is also a matter of economic necessity.

In order to ensure that Section 402—and all—highway safety funds are spent effectively, states should have to submit a highway safety plan that reflects the data in their particular state (ie, what causes highway death and injury in a particular state and what are the most effective solutions). Regional NHTSA offices should work in conjunction with the states to identify problem areas, and assist in identifying appropriate, proven countermeasures.

Question 4. Please respond to the ABI's comments regarding the definition of impaired driving as it relates to the collection of traffic fatality data. More specifically, there are different ways a driver can be impaired. What percentage of impaired driving is alcohol-related?

Answer. In 2002, an estimated 42,850 people died on the Nation's highways, up from 42,116 in 2001. Nearly 18,000 people, or 42 percent of all traffic fatalities, were killed in alcohol-related traffic crashes. MADD believes that each of the lives lost in alcohol-related crashes (as well as the hundreds of thousands of injuries) is 100 percent preventable.

NHTSA defines a fatal crash as alcohol-related or alcohol-involved if either a driver or a non-motorist (usually a pedestrian) had a measurable or estimated blood alcohol concentration (BAC) of 0.01 grams per deciliter (g/dl) or above. NHTSA also defines a nonfatal crash as alcohol-related or alcohol-involved if police indicate on the police accident report that there is evidence of alcohol present. MADD is extremely concerned that currently only 60 percent of drivers involved in fatal crashes are tested to determine if alcohol was involved.

MADD is the largest victims' assistance organization in the Nation. MADD serves victims who have lost family members in alcohol-related crashes, regardless of the BAC levels involved, and regardless of who was killed in the crash (ie, the drunk driver or an innocent motorist).

The alcohol beverage industry points out in their testimony the following (using the year 2000 as an example):

A breakdown of the 17,448 deaths includes:

- About 2,500 to 3,500 crash deaths in which no driver was legally drunk but alcohol was detected.
- 1,770 deaths involved drunk pedestrians killed when they walked in front of sober drivers.
- About 8,000 deaths involved only a single car and in most of those cases the only death was the drunk driver.
- That leaves about 5,000 sober victims killed by legally drunk drivers.

MADD's analysis of these numbers shows that the alcohol beverage industry is attempting to manipulate the data:

- "Legally drunk" in many states at the time the 2000 data was collected meant a BAC of .10 or higher. In 2000 the .08 national standard was signed into law. In 2000 there were 18 states that had an illegal per se .08 law, and today there are 40 and counting.
- While a concern, the number of pedestrian crashes in which the pedestrian was drunk makes up a very small portion of the overall alcohol-related number. Because pedestrian crashes are included in the overall alcohol-related number, MADD and other safety groups are careful to cite the overall number as "alcohol-related," and not "drunk driving" or "impaired driving" deaths.
- Families grieve for the loss of their loved one regardless of whether the person killed was the drunk driver or an innocent motorist. This alcohol industry comment is extremely offensive.
- It is most difficult for many families and loved ones to make sense of the tragedy of losing a sober victim killed in an alcohol-related crash. These stories most often make headlines because of the random nature and timing of death.

Highway fatalities in America will not be reduced, as the alcohol beverage industry contends, by lowering the legal drinking age, raising the amount of alcohol that a person may consume before driving, or by eliminating sobriety checkpoints. As their testimony attests, the industry's latest effort is to discredit the manner in which NHTSA defines and tabulates "alcohol-related" crashes. Research from DOT and the Department of Health shows that the risk of being involved in a crash increases significantly starting at low BAC levels. Not surprisingly, the risk of being involved in a traffic crash rises rapidly with the amount of alcohol consumed.

Question 5. Considerable progress has been made over the past decades in reducing highway fatalities, but this progress has slowed in the last few years. In fact, the number of fatalities has increased recently. What are the reasons for this spike?

Answer. Between 1980—the year MADD was founded—and 1994, alcohol-related traffic deaths dropped by a dramatic 43 percent. However, for the third consecutive year, alcohol-related traffic deaths have increased. Preliminary statistics show that nearly 18,000 people were killed and hundreds of thousands more were injured in these crashes just last year. According to DOT, in 2000 alcohol-involved crashes accounted for 21 percent of nonfatal injury crash costs, and an overwhelming 46 per-

cent of all fatal injury crash costs. In order to reverse this trend, the Nation cannot maintain the status quo and expect a different result. The main reason for the increase is that the Nation has become complacent about alcohol-impaired driving—many think that the war has been won.

The nation's effort to stop alcohol-impaired driving must be reenergized. We must deter people from drinking and driving to begin with, (via enforcement efforts and priority traffic safety laws) and for those who continue to drink and drive, the judicial system must work better to ensure that offenders do not continuously fall through the cracks (see S. 1141—targeting high BAC and repeat offenders).

In response to the spike in alcohol-related traffic deaths, MADD convened a National Impaired Driving Summit to bring together leading experts to identify the most effective countermeasures to significantly cut alcohol-related traffic deaths and injuries. The Summit recommendations are an attempt to counter the causes of the stagnation and recent increases. The recommendations are:

- Resuscitate the Nation's efforts to prevent impaired driving by re-igniting public passion and calling on the citizens and the Nation's leaders to "Get MADD All Over Again."
- Increase DWI/DUI enforcement, especially the use of frequent, highly publicized sobriety checkpoints, which have been proven one of the most effective weapons in the war on drunk driving.
- Enact primary enforcement seat belt laws in all states because seat belts are the best defense against impaired drivers. MADD recommends the Federal government give states a brief incentive period, followed by withholding Federal highway funds from states that do not enact primary belt laws.
- Enact tougher, more comprehensive sanctions geared toward higher-risk drivers—repeat offenders, drivers with high blood-alcohol levels, and DWI offenders driving with suspended licenses.
- Develop a dedicated National Traffic Safety Fund to support ongoing and new priority traffic safety programs.
- Reduce underage drinking—the No. 1 youth drug problem—through improving minimum drinking age laws, adopting tougher alcohol advertising standards and increasing enforcement and awareness of laws such as "zero tolerance drinking-driving" and sales to minors.
- Increase beer excise taxes to equal the current excise tax on distilled spirits. Higher beer taxes are associated with lower rates of traffic fatalities and youth alcohol consumption.
- Reinvigorate court-monitoring programs to identify shortcomings in the judicial system and produce higher conviction rates and stiffer sentences for offenders.

Question 6. The lack of progress in reducing highway fatalities is especially frustrating in light of the billions of dollars that have been spent on highway safety and infrastructure improvements under TEA-21. As we move forward and reauthorize these programs, where should we make future safety improvements to ensure sustained programs?

Answer. Funding is an important factor in the success of national, state and local traffic safety programs to reduce drunk driving. In 2001, while the economic cost of traffic crashes was \$230 billion, the Federal government spent only \$522 million on highway safety and only one-quarter of that was used to fight impaired driving. Compared to the financial and human costs of drunk driving, our Nation's spending is woefully inadequate to address the magnitude of this problem.

What MADD found, under TEA-21, was that much of the funding labeled as "safety" was diverted to *construction* "safety" programs. Although alcohol is a factor in 42 percent of all traffic deaths, only 26 percent of all highway safety funding available to the states through TEA-21 was spent on alcohol-impaired driving countermeasures. In addition, funding dedicated to address behavioral traffic safety programs was often spent on programs that failed to reflect the true nature of a state's highway safety concerns.

It is just as important to know where the money is going and how it is being spent. That is why MADD is asking Congress to hold states and the National Highway Traffic Safety Administration accountable for the expenditure of Federal highway safety funds. Our goal is not to make their jobs more difficult. It is to recognize that political pressures and "flavor of the month" traffic safety issues can influence how dollars are spent. If DOT's primary goal is to reverse the current trend, it is time to create a more consistent process that ensures the efficient and proper use of Federal funds to help the Nation achieve its highway safety goals.

For these reasons, MADD's reauthorization proposal calls for increased funding for proven, science based countermeasures and greater accountability for the expenditure of Federal highway safety funds to achieve sustained progress in reducing traffic deaths and injuries.

Question 7. The Administration's SAFETEA proposal would consolidate some programs and give states greater flexibility on spending decisions by allowing the movement of funds between parts of Section 402 programs and highway construction programs. What are the advantages and disadvantages to this approach?

Answer. States overwhelmingly choose to shift behavioral traffic safety funding to construction when given "flexibility." According to the General Accounting Office, states shifted 69 percent of the open container and repeat offender transfer funds (FY01-02) to roadway construction under FHWA's Hazard Elimination Program. The overwhelming majority of "safety" funding in the "SAFETEA" proposal is budgeted in the new "Highway Safety Improvement Program" (HSIP), which is really a highway construction safety program. In 2004 alone, \$1 billion is allocated to the HSIP program. These funds are to be used for "safety improvement projects," defined below.

A safety improvement project corrects or improves a hazardous roadway condition, or proactively addresses highway safety problems that may include: intersection improvements; installation of rumble strips and other warning devices; elimination of roadside obstacles; railway-highway grade crossing safety; pedestrian or bicycle safety; traffic calming; improving highway signage and pavement marking; installing traffic control devices at high crash locations or priority control systems for emergency vehicles at signalized intersections, safety conscious planning and improving crash data collection and analysis, etc.

MADD sees no advantage to allowing states to be able to shift behavior funds to construction. On the contrary, the failure to allocate funds to address proven impaired driving countermeasures, such as law enforcement mobilizations, is likely an important factor in recent increases in alcohol-related traffic deaths. Given that human factors account for the majority of traffic crashes, it is difficult to understand the vastly disproportionate funding levels for behavioral versus roadway construction safety programs and why DOT allows a significant portion of the behavioral funds to be used to augment even more roadway construction spending.

Question 8. As Congress seeks to encourage states to reduce their traffic-related fatalities through various programs, it can choose to provide incentive grants or it can choose to penalize states for not adopting highway safety laws. Which approach is more effective?

Answer. Penalizing states is clearly the more effective approach to encourage states to adopt proven highway safety laws. While incentive programs have had some success, it is clear that—particularly with alcohol-related traffic laws—penalties have shown greater results than incentives. DOT estimates that the 21 Minimum Drinking Age (MDA) law has saved thousands of lives since the national standard was put in place in 1984. A national zero tolerance standard for youth, adopted by Congress in 1995, was also successful in getting states to enact better laws for underage drivers. Clearly the national .08 BAC standard, enacted in 2000, has been much more effective than the TEA-21 incentive program. Under the incentive program, only two states passed .08 BAC laws. Since the national .08 standard was enacted, 22 states have passed this important law.

Question 9. What are the major items in SAFETEA that you like about the proposal and what, in your view, should be reconsidered? Are there aspects of highway safety that the proposal does not address?

Answer. SAFETEA provides major increases in construction safety while flat-funding or even cutting behavioral safety programs. This is puzzling since GAO just recently reiterated what the traffic safety community has known for years—that human behavior (not roadway environment) is the leading factor in crash causation.

Although alcohol-related traffic deaths have increased for the past three years, SAFETEA significantly decreases funding for alcohol-impaired programs. SAFETEA proposes a specific impaired driving program of only \$50 million, far less than current funding levels. In FY03, TEA-21 authorized \$150 million for alcohol-impaired driving countermeasures and contained requirements for states to enact repeat offender and open container laws. Not only does SAFETEA cut specific impaired driving funding to \$50 million, it fails to include incentives to states to enact effective alcohol-impaired driving countermeasures.

While the Administration claims that reducing alcohol-related traffic fatalities is a top priority, the SAFETEA proposal fails to include funding for proven countermeasures. Although law enforcement efforts, such as paid media blitzes coupled

with enforcement efforts like sobriety checkpoints and saturation patrols, have been proven to be extremely effective, SAFETEA does not incorporate these obvious solutions.

MADD believes that progress will occur when adequate funding is provided for traffic safety programs and when a commitment is made to put proven impaired driving countermeasures, such as law enforcement mobilizations, into place. There must be improved accountability on the national, regional and state levels to ensure that Federal funds are being used in a strategic and coordinated effort. The reauthorization provides Congress with the opportunity to encourage states to enact priority traffic safety laws—such as primary seat belt enforcement, higher-risk driver and open container standards—as well as to ensure that effective behavioral traffic safety programs are being carried out.

